



April 27, 2020

Cari Anderson
California Air Resources Board
P.O. Box 2815
Sacramento CA 95812

Submitted Electronically

Dear Ms. Anderson:

Thank you for the opportunity to submit comments on the California Air Resources Board's (CARB) Transport Refrigeration Unit (TRU) Regulation Concept. I am writing on behalf of the Global Cold Chain Alliance and its warehouse and transportation members that would be significantly impacted by the proposed regulation.

We appreciate CARB extending the comment period in response to the ongoing COVID-19 crisis. The pandemic continues to severely impact our members, who remain focused on critical operations to maintain the food supply and ensure a safe workplace for employees. Unemployment is skyrocketing and it appears that the economy is moving into a recession. Given the magnitude of the pandemic and uncertain impacts and timeline for recovery, we strongly believe that now is not the time to institute significant new regulatory burdens that may threaten the ability of essential businesses to continue operating in support of the food supply and critical infrastructure.

Requiring facilities in the food supply chain to conduct lengthy construction projects that may render parts of these facilities to be partially or totally non-operable, must be considered given the industry's role in emergency relief during pandemics. Sudden demand spikes from panic-buying created a surge larger than even typical seasonal holiday peaks. Distributors have had to reconfigure operations to adjust to steep declines in restaurant business. Food pantry demand has increased.

It is simply not viable to hamper the operation of the food supply chain when public health experts expect anywhere between 12-24 months or longer of social distancing orders. Additionally, stakeholders and staff have limited opportunity for engagement on the technical and practical implementation of the rule given California's shelter-in-place order.

We recommend that the current rulemaking process be suspended to allow government and industry to focus efforts on pandemic response and recovery. The impacts of the pandemic could have lasting effects on industry and could also present challenges for the ability of CARB and other government agencies to undertake and effectively implement major new regulatory programs. We believe it is prudent to suspend this process until the national emergency has subsided and both government and industry are able to return to more normal operations.

While our primary request is to suspend the process, at a minimum, all compliance deadlines included in the proposed regulation should be extended by at least two years. While it may take more than two years for companies to recover from the pandemic, the additional time will hopefully allow industry to get through the current emergency before having to make major financial investments to come into compliance.

In addition to requesting a suspension of the rulemaking process and extensions of compliance deadlines to allow for recovery, we would like to provide the following input regarding the provisions of the proposed rule.

We have overall concerns with the concept of facilities playing a reporting role on TRUs. This places facilities in a very challenging position to regulate and police its supply chain partners. More specifically, we believe the Stationary Operating Time Limit Requirements, as drafted, place facilities in an untenable situation. Facilities are not in a position to control the movements of TRUs outside of their facility boundaries and should not be held liable for TRUs that are stationary within one mile of a facility boundary for more than 15 minutes, or are mobile within one mile of a facility boundary for more than 30 minutes. The suggestion that this shall be considered prima facie evidence that the TRU has been moved or diverted in order to avoid the SOTL requirement should not apply to the facility without specific evidence that the facility directed such movement outside the facility boundary.

Facilities cannot control the various factors that can impact when a TRU arrives at, or near their facility. TRUs may arrive well before, or well after the appointments set with the facility. The regulation should recognize that rejecting a TRU who is early or late for their scheduled appointment and not allowed onsite if their TRU cannot be accommodated should not be considered to be “directed to operate outside of the fence line to avoid plugging in”.

The proposed policy states that facilities must provide a declaration to CARB, under penalty of perjury, that non-compliant TRUs subject to this regulation will not be permitted to operate within the Applicable Facility Geofence and that penalties may be assessed to the facility. We suggest that facilities acting in good faith based on the information provided with the TRU should not be liable for penalties if such CARB compliance related information provided by the TRU

appears to be valid, but is falsified or otherwise inaccurate without the knowledge of the facility.

We appreciate the inclusion of the Applicable Facility SOTL Compliance Extension provisions. These provisions are even more important given the current pandemic. As stated earlier in these comments, we believe that all compliance deadlines should be extended by at least two years. Even with the extension of compliance deadlines, it is critically important that the proposed compliance extension provisions be available to impacted facilities.

Thank you for your consideration of our request to suspend the rulemaking process during the pandemic and extending all compliance deadlines. We also appreciate your consideration of concerns related to impact to regulated facilities. The proposed regulation has the potential to significantly impact our industry and we appreciate the opportunity to work through these issues and concerns with you. Please let us know if you have questions or if we can be of assistance.

Sincerely,

A handwritten signature in cursive script that reads "Lowell Randel". The signature is written in dark ink and is positioned above the printed name.

Lowell Randel