



**California Trucking Association**  
4148 E. Commerce Way \* Sacramento, CA \* 95834  
[www.caltrux.org](http://www.caltrux.org)

**American Trucking Associations**  
950 North Glebe Road, Suite 210 \* Arlington, VA \* 22203  
[www.trucking.org](http://www.trucking.org)

---

September 13, 2021

Clerks' Office  
1001 I Street  
Sacramento, CA 95814

### **Submitted Electronically**

RE: Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate (TRU ATCM) Regulation

The California Trucking Association (CTA) and the American Trucking Associations (ATA) appreciate the opportunity to submit comments on the California Air Resources Board's (CARB) TRU ATCM draft regulatory language.

### **CARB Lacks Authority to Impose Proposed Fees**

Existing law prohibits specified motor vehicles, engines, and parts from being sold in the state unless they are certified by CARB as meeting certain emission standards. For a vehicle to be certified, the vehicle's manufacturer must comply with specified testing requirements. Following certification, vehicles are subject to ongoing inspection and testing to ensure continued compliance.

To cover ARB's reasonable costs of implementing the certification, audit, and compliance programs authorized or required by state law, Health and Safety Codes 43019 and 43019.1 authorize CARB to adopt a schedule of annual fees to be paid by the entity seeking certification. Neither section describes any other circumstances under which ARB may charge a fee.

In addition, both sections 43019 and 43019.1 expressly specify that the fee is to be paid by an "entity seeking ... certification." Neither names any other person that may be responsible for fees imposed pursuant to these sections. The statutes thus plainly contemplate that the fees in question will be paid as part of the certification process.

Therefore, CARB may not charge a fee under those sections for anything other than the certification, audit, and compliance of applicable motor vehicles, engines, and parts. This is reflected in CARB's own regulations implementing SB 854<sup>1</sup>.

---

<sup>1</sup> <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/mobilesourcefee2021/isor.pdf>



**California Trucking Association**  
4148 E. Commerce Way \* Sacramento, CA \* 95834  
[www.caltrux.org](http://www.caltrux.org)

**American Trucking Associations**  
950 North Glebe Road, Suite 210 \* Arlington, VA \* 22203  
[www.trucking.org](http://www.trucking.org)

---

TRU owners and applicable facility operators are not entities seeking to certify engines for sale in the State, but rather operate engines already certified under these sections and are, thus, not subject to the provisions of Health and Safety Code 43019.1. In California, tax and fee authority is limited by the State's constitution to the legislature, voter initiative and local government under specified provisions. CARB may not levy the fee sought under this regulation without explicit authorization under California law.

We look forward to working with CARB to seek a reasonable path forward to ensuring adequate resources are available to enforce a level playing field for our membership while being consistent with the law.

### **Include Additional Compliance Labeling Options**

Existing law requires owners and operators to register and report applicable TRUs through the ARB Equipment Registration (ARBER) Program. Each unit must comply with CARB's emissions standards prior to registration and are subject to ongoing compliance enforcement. An electronic identification number (IDN) is administered and stored on ARBER to the owner or operator associated with each registered TRU to determine compliance.

Section 2477.5(i) of the proposed regulation requires CARB to issue physical compliance labels affixed to the housing of the TRUs that supersedes ARB IDN labeling requirements. Our members have provided feedback requesting the use of alternative compliance verification labels such as trailer license plates, VINs or company IDs be allowed to avoid the logistical difficulty of physically affixing CARB-issued labels to equipment which may be distributed throughout the country. In addition to alternative compliance labels, fleets should be provided the option to:

1. Obtain electronic verification from CARB that a carrier is compliant which can be provided to the applicable facility operator as proof of compliance at the fleet level; or
2. Contractually verify compliance with the TRU regulation with their shipper customers on an annual basis.

The additional options should be included in the regulation to reduce burdensome requirements that further delay the transportation of the goods movement sector.

Again, thank you for the opportunity to comment on the draft regulatory language. For any questions or concerns in regard to our submitted comments, please contact Chris Shimoda at [CShimoda@caltrux.org](mailto:CShimoda@caltrux.org) or Mike Tunnell at [MTunnell@trucking.org](mailto:MTunnell@trucking.org).



**California Trucking Association**  
4148 E. Commerce Way \* Sacramento, CA \* 95834  
[www.caltrux.org](http://www.caltrux.org)

**American Trucking Associations**  
950 North Glebe Road, Suite 210 \* Arlington, VA \* 22203  
[www.trucking.org](http://www.trucking.org)

---

Chris Shimoda,  
Vice President of Government Affairs  
California Trucking Associations  
[cshimoda@caltrux.org](mailto:cshimoda@caltrux.org)

Michael Tunnell  
Director, Energy and Environmental Affairs  
American Trucking Associations  
[mtunnell@trucking.org](mailto:mtunnell@trucking.org)

CC: Cari Anderson, Branch Chief, California Air Resources Board  
Lea Yamashita, Air Pollution Specialist, California Air Resources Board