

ATTACHMENT 1

15-Day Modifications to the Original Proposal

MODIFICATIONS TO 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

Shown on the following pages are the proposed modifications to the originally proposed regulatory text set forth in Appendix A of the Staff Report: Initial Statement of Reasons, which was released August 31, 2011. All originally proposed regulatory language is shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The proposed modifications to the original proposal are shown in double underline to indicate additions and ~~double strikeout~~ to indicate deletions. Text that is both single underlined and double struck through is text that staff proposed during the 45-day public notice period but later retracted as part of this 15-day public notice period.

Various portions of the regulation that are not modified by staff's suggested modifications are omitted from the text shown and indicated by:

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

Amend article 8, Off-Road Airborne Toxic Control Measures, and section 2477 and adoption of sections 2477.1, 2477.2, 2477.3, 2477.4, 2477.5, 2477.6, 2477.7, 2477.8, 2477.9, 2477.10, 2477.11, 2477.12, 2477.13, 2477.14, 2477.15, 2477.16, 2477.17, 2477.18, 2477.19, 2477.20, and 2477.21, within division 3, chapter 9, title 13, California Code of Regulations (CCR), to read as follows:

Article 8. Off-Road Airborne Toxic Control Measures

Section 2477. Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate.

~~(e)~~2477.3 Exemptions.

(d) TRUs that are used during an emergency (as defined) are exempt from the in-use performance standards of section 2477.5(a) of this subarticle, provided the requirements of subsection 2477.5(ej) are met. This exemption expires on January 1, 2025. California-based TRUs are not exempt from the ARBER registration requirements in section 2477.5(e).

~~(e)~~2477.5 Requirements for Owners or Owner/Operators.

~~(A)~~(a) In-Use Performance Standards:

~~2.~~(2) In-Use performance standard categories for TRU and TRU gen set engines with rated brake horsepower greater than or equal to 25 horsepower (≥ 25 hp) are shown in Table 4, along with the engine certification standards or the level of VDECS that is necessary to qualify for each category.

a.(A) Compliance with the in-use performance standards can be achieved by:

(B)(b) In-Use Compliance Dates:

~~3.~~(3) No owner or owner/operator shall operate a 2003 MY TRU or TRU gen set engine in California unless it meets the in-use performance criteria set forth in subsection ~~(e)(1)(A)~~2477.5(a) for

a.(A) LETRU on or before December 31, 2010, and

b.(B) ULETRU on or before December 31, 2017, as shown in Tables 5 and 6.

~~4.~~(4) No owner or owner/operator shall operate a 2004 MY and subsequent MY TRU or TRU gen set engine in California unless it meets the in-use performance criteria set forth in ~~paragraph (e)(1)(A)~~ subsection 2477.5(a) for ULETRU on or before December 31st of the seventh year past the engine's model year, as shown in Tables 5¹ and ~~6~~^{6, 6⁸} with the following exception:

a.(A) Less than 25 hp model year 2004 engines shall meet the in-use performance criteria set forth in ~~paragraph (e)(1)(A)~~section 2477.5 (a), shown in Table 5, for:

~~1.~~1. LETRU on or before December 31, 2011, and

~~2.~~2. ULETRU by December 31, 2018.

~~5.~~(5) Requirements for TRUs or TRU gen sets that are equipped with flexibility engines and operated in California.

b.(B) To allow TRU and TRU gen set owners to meet the registration requirements of ~~subparagraph (a)~~subsection (A) above, the original equipment manufacturer shall by April 6, 2011:

⁶¹ Model years 2013, and subsequent (not shown in tables 5 and 6), shall meet ULETRU by December 31st of the seventh year after the engine model year or effective model year, except as allowed under ~~(e)(1)(B)~~section 2477.5(b)(5).

1. Provide the following unit and flexibility engine information to ARB in electronic format:

(D)(d) In-Use Recordkeeping and Reporting.

(3) An owner that has elected to comply by using a hybrid electric TRU or electric standby-equipped TRU must meet the following recordkeeping, and reporting requirements for each unit.

(A) Beginning [30 days after the amendments become effective] manual recordkeeping is required for all such units until automated monitoring, recordkeeping, and reporting is required under the phased compliance schedule in subparagraph (B), below. Manual records shall include the following, for each TRU that is equipped with electric standby or hybrid electric:

~~(1)~~1. ARB Identification Number of the unit, issued under section 2477.5(e);

~~(2)~~2. Date;

~~(3)~~3. Address of each stationary location lasting more than 5 minutes. This record may be a location code for each stationary location, provided the owner or operator also provides a cross-reference of location codes with the corresponding physical addresses;

~~(4)~~4. Time of arrival and departure, and the elapsed time calculated from those readings to show the duration of the stationary position;

~~(5)~~5. Engine hour meter readings taken at arrival and departure and the elapsed time calculated from those readings to show the TRU engine run time while the vehicle is at the stationary location; and

~~(6)~~6. Electric shore power driven electric motor hour meter readings taken at arrival and departure and the elapsed time that electric shore power drove the refrigeration system while the vehicle is at the stationary location.

(B) Automated monitoring, recordkeeping, and reporting is required for at least 50 percent of an owner's TRUs by December 31, 2012 and 100 percent of an owners TRUs by December 31, 2013. Automated monitoring, recordkeeping and reporting is required with an electronic tracking system (as defined in section 2477.4) and shall include data that includes the following for each stationary location lasting more than 5 minutes (300 seconds):

- ~~(1)~~1. ARB Identification Number of the unit, issued under section 2477.5(e);
- ~~(2)~~2. Date;
- ~~(3)~~3. Address of each stationary location lasting more than 5 minutes (300 seconds). This record may be the GPS coordinates and a location code for each stationary location, provided the owner or operator also provides a cross-reference of location codes with the corresponding physical addresses;
- ~~(4)~~4. Time of arrival and departure, and the elapsed time calculated from those readings to show the duration of the stationary position;
- ~~(5)~~5. Engine hour meter readings taken at arrival and departure and the elapsed time calculated from those readings to show the TRU engine run time while the vehicle is at the stationary location; and
- ~~(6)~~6. Electric motor hour meter readings taken at arrival and departure and the elapsed time that electric shore power is powering the refrigeration system while the vehicle is at the stationary location.
- ~~(7)~~7. The electronic tracking system shall generate a report that lists all stationary locations lasting more than 5 minutes where the TRU engine operated for more than 30 minutes, resulting in a violation.

(E)(e) ARB Identification Numbering Requirements.

- ~~1.~~(1) California-based TRUs and TRU gen sets:

- ~~b.~~(B) Applications shall be submitted by one of the following methods:
 - ~~1.~~1. Mail or deliver a physical report to ARB at the address listed immediately below:

(g) ULETRU Extension for Compliance by Original Compliance Date

- ~~(2)~~(2) Owner must apply for the ULETRU extension at least 90 days before the ULETRU compliance date by submitting an ARB application that includes the following information:

(E) In the case of a unit replacement, documentation on the old noncompliant unit that was replaced; and

(EF) Owner's or responsible official's signature, after the statement: "I certify under penalty of perjury under the laws of the State of California that the information provided is true, accurate, and complete."

(3) The owner or responsible official must submit an application for "ULETRU Extension for Compliance by the Original Compliance Date" to the Executive Officer by one of the following methods:

(C) Electronically submit through ARB's ARBER website at: <http://www.arb.ca.gov/arber/arber.htm>

(2)(h) Fuel Requirements.

(A)(1) Owners or ~~e~~Owner/~~e~~Operators Choosing to Use Alternative Diesel Fuels.

4.(D) In the event that the owner or owner/operator decides to revert to using conventional diesel or CARB diesel fuel, the owner or owner/operator shall comply with the requirements of subsection ~~(e)(1)~~2477.5(a) within 10 days of discontinuation of alternative diesel fuel use. Within 10 days of discontinuation, the owner or owner/operator shall notify the Executive Officer in writing of this change in fuel use and shall include an update to any ARB I.D. number application the compliance information submitted to ARBER or annual report submitted to comply with subsections ~~(e)(1)(E)~~, 2477.5(e), ~~(e)(1)(F)~~ 2477.5(f), or ~~(f)(1)~~ 2477.6.

(j) Mobile Catering Company Exemption Requirements.

(1) The Executive Officer may grant a one year exemption to mobile catering companies for TRUs that are not compliant with the in-use performance standards under section 2477.5(a) if the following conditions are met:

(C) The mobile catering company must submit an application each year for a Mobile Catering Company Exemption to the Executive Officer by one of the following methods:

3. Electronically submit through ARB's ARBER website at:
<http://www.arb.ca.gov/arber/arber.htm>

(G) During transit on California highways, the driver must, upon request:

32. Allow the ARB inspector to inspect the TRU to confirm the Mobile Catering Service exemption applies to the equipment.

(k) Compliance Extension for In-Use Performance Standards Based on Unavailability of Compliance Technology.

(1) If there is no compliance technology available for a specific TRU or TRU gen set within six months of a compliance date, the Executive Officer may grant a one year extension of the compliance deadline, provided the following conditions are met:

(A) A person or applicant must submit a written application to the Executive Officer that demonstrates the absence of any suitable compliance option that can be used on the specific equipment and the owner cannot otherwise meet the requirements of subsection 2477.5(a) by the compliance dates of subsection 2477.5(b). The application for and issuance of any extension pursuant to this subsection shall be subject to the following requirements:

6. The owner or responsible official must submit an application for Compliance Extension to the Executive Officer by one of the following methods:

c. Electronically submit through ARB's ARBER website at:

<http://www.arb.ca.gov/arber/arber.htm>

7. The TRU or TRU gen set shall be registered in ARBER under section 2477.5(e).

(l) Compliance Extension for In-Use Performance Standards Based on Delays Due to Private Financing, Equipment Manufacture Delays, or Installer Delays.

(1) The Executive Officer may grant a one-time, maximum four month extension to the normal compliance date set forth in subsection 2477.5(b) for meeting the in-use performance standards set forth in subsection 2477.5(a), provided certain conditions are met:

(C) An extension application is submitted before the compliance deadline that explains in detail why a compliance extension is needed and how much additional time to comply is needed, including:

5. The owner or responsible official must submit an application for Compliance Extension to the Executive Officer by one of the following methods:

c. Electronically submit by email to: arber@arb.ca.gov

(m) ULETRU Extension for Compliance with LETRU.

(1) The ULETRU compliance dates required under subparagraphs 2477.5(b)(1) through (4) may be extended one year for TRUs or TRU gen sets equipped with MY 2003 or older engines if they complied by meeting the LETRU In-Use Performance Standard by the compliance dates listed below and the following qualifications are met:

(G) The owner or responsible official must submit an application for ULETRU Compliance Extension for Compliance with LETRU for TRU or TRU gen set replacement under subparagraph 2477.5(m)(1)(C), above, to the Executive Officer by one of the following methods:

3. Electronically submit through ARB's ARBER website at:
<http://www.arb.ca.gov/arber/arber.htm>

(n) Safe Passage for Noncompliant Equipment Traveling in California.

(1) The Executive Officer may grant a safe passage permit to a TRU or TRU gen set owner to travel on California highways with a specific noncompliant TRU or TRU gen set, provided the following conditions are met:

(E) The owner shall submit an application for a safe passage permit to the Executive Officer. Safe passage permit applications shall be submitted by one of the following methods:

3. Electronically submit through ARB's ARBER website at:
<http://www.arb.ca.gov/arber/arber.htm>

2477.10 Requirements for California-Based Shippers.

(a) Beginning January 1, 2013, California-based shippers that ~~that~~ arrange, hire, contract for, or dispatch the transport of perishable goods in TRU-equipped trucks, trailers, shipping containers, or railcars, or TRU gen sets on California highways or railways must:

2477.11 Requirements for California-Based Receivers.

(a) Beginning January 1, 2013, California-based receivers that ~~that~~ arrange, hire, contract for, or dispatch the transport of perishable goods in TRU-equipped trucks, trailers, shipping containers, or railcars; or TRU gen sets on California highways or railways must:

2477.13 Requirements for TRU and TRU Gen Set Original Equipment Manufacturers.

(a) TRU and TRU original equipment manufacturers that equip TRUs or TRU gen sets with flexibility engines, as defined in section 2477.4, shall do all of the following:

(3) Beginning [120 days after the effective date of the amendment] ~~the original equipment manufacturer shall provide written disclosures to the ultimate purchaser, prior to sale of~~ with new TRUs or TRU gen sets that are equipped with flexibility engines. These written disclosures may be included with documentation that is shipped with the TRU or TRU gen set and must include instructions to dealers telling them they are required by California law to notify the ultimate purchaser of these disclosures prior to sale and to pass these written disclosures to the ultimate purchasers at point of sale. The following disclosures are required:

(3)(b) Original Equipment Manufacturer Reporting

(A)(1) Current Production Reports:

2.(B) The following engine information for each TRU or TRU gen set model:

6.3. Engine model, as it appears on the serial number label, if different;

(B)(2) Prior Production Reports:

3.(C) Original equipment manufacturers shall provide the following information for each TRU and TRU gen set:

i-9.9. Tier standard met.

(c) Beginning [120 days after the effective date of the amendment] TRU and TRU gen set original equipment manufacturers (OEM) that sell TRUs, TRU gen sets, or replacement engines in California shall:

(2) Provide a registration information document with each new TRU and TRU gen set, that includes:

(D) As an alternative to providing the registration information document, the TRU or TRU gen set original equipment manufacturer may provide a web-based, on-line lookup system for registration information that is at least as effective as section 2477.13(c)(2)(A), (B), and (C), subject to advance Executive Officer approval. In determining whether a specific web-based, on-line lookup system for registration information is at least as effective as section 2477.13(c)(2)(A), (B), and (C), the Executive Officer shall consider information submitted by the manufacturer and shall exercise good scientific and engineering judgment.

(3) Provide a registration information document with each new and rebuilt replacement engine supplied by the OEM that includes:

(D) As an alternative to providing the registration document, the TRU or TRU gen set original equipment manufacturer may provide a web-based, on-line lookup system for registration information that is at least as effective as section 2477.13(c)(3)(A), (B), and (C), subject to advance Executive Officer approval. In determining whether a specific web-based, on-line lookup system for registration information is at least as effective as section 2477.13(c)(2)(A), (B), and (C), the Executive Officer shall consider information submitted by the manufacturer and shall exercise good scientific and engineering judgment.

2477.14 Requirements for TRU, TRU Gen Set, and TRU-Equipped Truck and Trailer Dealers.

(a) Beginning [120 days after amendment effective date], dealers that sell and/or install TRUs, TRU gen sets, or replacement engines in California shall:

(1) Pass the registration information document provided by the TRU or TRU gen set OEM (under section 2477.13) or print-out from the OEM's web-based look-up system (under section 2477.13(c)(2)(D) or 2477.13(c)(3)(D)) to the ultimate purchaser upon sale of a new TRU or TRU gen set that includes the TRU or TRU gen set unit information and the TRU engine information required for registration under section 2477.5(e).

(2) Pass the registration information document provided by the TRU or TRU gen set OEM under (section 2477.13) or print-out from the OEM's web-based look-up system (under section 2477.13(c)(2)(D) or 2477.13(c)(3)(D)), or engine rebuilder (under section 2477.16) to the ultimate purchaser upon sale of a new replacement engine, or rebuilt replacement engine that includes the engine information required for registration under section 2477.5(e).

(4) If a new TRU or TRU gen set is equipped with a flexibility engine, the dealer shall notify the ultimate purchaser of the written disclosures provided by the OEM under section 2477.13(a)(3) prior to sale and shall pass these disclosures to the ultimate purchaser at point of sale of a new TRU or TRU gen set.
