

State of California
AIR RESOURCES BOARD

Addendum to the Final Statement of Reasons for Rulemaking

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

Public Hearing Date: October 21, 2011
Agenda Item No.: 11-8-4
Addendum Prepared: October 15, 2012

I. Background

On August 31, 2012, the Air Resources Board (ARB or Board) submitted the Final Statement of Reasons (FSOR) and the Final Regulation Order for 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 to the Office of Administrative Law (OAL) for its review and approval.

In the course of its review, OAL identified several places in the Final Regulation Order where changes of a technical or grammatical nature would improve the clarity, consistency, or readability of the text. ARB also identified additional places where changes of a technical or grammatical nature would improve the clarity, consistency, or readability of the text, and has accordingly modified the Final Regulation Order and is submitting this Addendum to OAL to describe and provide reasons for these changes by ARB to the Final Regulation Order.

II. Additional Non-Substantial Changes

ARB has identified and made additional modifications to improve the consistency and clarity of the regulation, as described below. ARB has determined that such modifications are non-substantial, in that none of them materially alter the requirements, rights, responsibilities, conditions or prescriptions contained in the Final Regulation Order filed with OAL.

Section 2477.2 Applicability

The Final Regulation Order indicates that the amendments delete section (b)(4) of the current regulatory text:

“TRU and TRU gen set original equipment manufacturers that directly or indirectly sell or offer for sale TRUs and TRU gen sets to the California market.”

ARB confirms that text was inadvertently omitted from Appendix A of the “Staff Report: Initial Statement of Reasons for Proposed Rulemaking,” which contained the proposed amendments. However, the amendments substitute (b)(4) of the current regulatory text with new section 2274.2(i), which was indicated via underline. and therefore the omission constitutes a non-substantive modification. Therefore, ARB has not modified this section of the Final Regulation Order.

Section 2477.4 Definitions

(a)(4) “Alternative Diesel Fuel”

ARB proposed an amendment to the definition “Alternative Diesel Fuel”; however, OAL advised ARB that the proposed definition lacked clarity as the proposed amendment contained a term that does not expressly appear in either section 2281 or 2282 of title 13, California Code of Regulations. ARB is therefore not amending the definition and will revert back to the current definition of “Alternative Diesel Fuel”:

(4) “Alternative Diesel Fuel” means any fuel used in diesel engines that is not commonly or commercially known, sold or represented as diesel fuel No. 1-D or No. 2-D, pursuant to the specification for Diesel Fuel Oils D975-81, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g. recalibration of the engine fuel control) may enhance performance. Examples of alternative diesel fuels include, but are not limited to, biodiesel, Fischer Tropsch fuels, and emulsions of water in diesel fuel. Natural gas is not an alternative diesel fuel. An emission control strategy using a fuel additive will be treated as an alternative diesel fuel based strategy unless:

(A) The additive is supplied to the vehicle or engine fuel by an on-board dosing mechanism, or

(B) The additive is directly mixed into the base fuel inside the fuel tank of the vehicle or engine, or

(C) The additive and base fuel are not mixed until vehicle or engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine or vehicle.

(a)(70)(A) “Owner”

ARB deleted an extraneous space appearing between “agreement)” and the last period in the section .

(a)(75) “Prior Tier Replacement Engine”

ARB confirms that “August 31, 2012” is the correct date for this definition. No change is necessary to this section of the Final Regulation Order.

Section 2477.5 Requirements for Owners or Owner Operators

(a)(3)(A)

An extra space between “following” and “conditions” was deleted.

(a)(3)(B)2.

An extra space ARB between “point” and “;” was deleted.

(b)

A comma was added to separate the superscript “6” and “7” appearing above (C) in the first sentence to provide greater clarity.

(b)(4)

ARB inadvertently failed to underline the superscript “8” above “Table 5” and has corrected that oversight in the Final Regulation Order.

ARB confirms that the text of footnotes 6 and 7 now appear (below section 2477.5(b)).

Table 5: <25 HP TRU and TRU Gen Set Engines, In-Use Compliance Dates

ARB replaced preexisting footnote “6” appearing in the column for “MY ‘13” with footnote “8” to clarify that 2013 and later model year engines, “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)5~~section 2477.5(b)(5).”

Table 6: ≥ 25 HP TRU and TRU Gen Set Engines, In-Use Compliance Dates

ARB deleted footnote “8” in the “MY” column for “‘03”, to clarify that the provisions of that footnote do not apply to 2003 TRUs or TRU gen set engines.

ARB corrected the footnote for “MY ‘04” from 10 to 12, to clarify that the provisions contained in footnote 12 apply to model year 2004 TRUs or TRU gen set engines.

ARB added footnote “8” to the “MY” column for “13” to clarify that the provisions of footnote 8 apply to 2013 and subsequent TRUs or TRU gen set engines.

ARB corrected the numbering of former footnote “10” to “12,” to clarify that the provisions of that footnote apply to TRUs and TRU gen sets with 2004 and subsequent model year engines.

(e)

ARB edited the formatting of the text to ensure that the text associated with footnote 13 now appears section 2477.5(e).

(h)(1)(D)

ARB underlined “2477.5(e)” and “2477.5(f)” to clarify that this text was added by the amendments.

(j)(1)(E)

ARB substituted “(j)(1)(D)7.” for “(o)(1)(C)7”. in the last sentence to correct an oversight because subsection “(o)(1)(C)7” does not exist.

Section 2477.12 Requirements for Lessors and Lessees

(b)(2)

ARB substituted section “2477.12(a)(1)(A)” for “section 2477.12(b)(1)(A),” to correct an incorrect citation.

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

(b)(1)(C)1.

The Final Regulation Order submitted to OAL indicated that the following text was being deleted by the proposed amendments:

CALIFORNIA AIR RESOURCES BOARD
STATIONARY SOURCE DIVISION (TRU)
P.O. BOX 2815
SACRAMENTO, CA 95812

However, that text does not appear in the existing text, Appendix A of the Staff Report: Initial Statement of Reasons for Proposed Rulemaking, or the first or second Notices of Public Availability of Modified Text, and has therefore been deleted to provide clarity and to eliminate potential confusion.

The Final Regulation Order submitted to OAL further indicated that the following text was being added by the proposed amendments:

California Air Resources Board
Stationary Source Division (TRU)
1001 I Street
Sacramento, CA 95814

That address already appears in the existing regulatory text, and ARB has accordingly deleted all underlining to clarify that the amendments do not modify that text.

(b)(2)(D)

The Final Regulation Order submitted to OAL indicated that the following text was being deleted by the proposed amendments:

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STATIONARY SOURCE DIVISION (TRU)
P.O. BOX 2815
SACRAMENTO, CA 95812

However, that text does not appear in the existing text, Appendix A of the Staff Report: Initial Statement of Reasons for Proposed Rulemaking, or the first or second Notices of Public Availability of Modified Text, and has therefore been deleted to provide clarity and to eliminate potential confusion.

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Authority Cited

To address issues raised by OAL regarding the inclusion of statutory penalty provisions in the “Authority cited” portions of the proposed amendments, ARB has deleted sections 39674, 39675, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.2, and 42410 from the “Authority Cited” citations for 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, 2477.20, and 2477.21.

Reference Cited

ARB inadvertently omitted “Health and Safety Code” from the citations in the “Reference” portions of the proposed amendments, ARB has therefore added “, California Health and Safety Code.” in the “Reference” citations for 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.