

## ATTACHMENT 1

### Second 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 second 15 day modified language now proposed by staff is shown in ***bold italic double underline*** to indicate additions and ~~***bold italic double strikeout***~~ to indicate deletions.

**Staff is proposing modifications to limited portions of the original proposal; for some portions where no modifications are proposed the text has been omitted and the omission 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

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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.

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(e)2477.3 Exemptions.

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**(e) (1) Noncompliant TRUs on refrigerated railcars that are not operated while traveling through California shall be exempted provided the Executive Officer has previously approved a written compliance plan submitted by the railway carrier.**

**(2) The written compliance plan must clearly identify the monitoring, recordkeeping, and reporting procedures that the railway carrier will implement and utilize to ensure that noncompliant TRUs on refrigerated railcars will not operate while in California.**

**(3) The compliance plan shall establish monitoring, recordkeeping, and reporting procedural requirements that the Executive Officer finds are sufficient to identify non-compliant TRUs being moved on railways in California and to ensure that such TRUs will not operate at any time while they are present within California.**

**(A) The compliance plan must include, without limitation: the procedure for tracking and recording routes and dates of travel within California of each noncompliant TRU, information identifying each noncompliant TRU (e.g. the railway carrier's reporting mark followed by the one-to-six-digit number which together uniquely identifies the railcar), a description of the automated monitoring and recordkeeping system for reporting the TRU "engine on" or "engine**

off” status, and the procedure for expeditiously reporting violations observed and/or discovered by the railway carrier.

(B) A statement is required, signed by an authorized railroad representative, declaring that the railway carrier agrees to be bound by the compliance plan.

(4) Within 30 days of the submission of a complete compliance plan, the Executive Officer shall approve or disapprove the compliance plan based on the information submitted by a railway carrier as specified in section 2477.3(e)(2) and (3) above, and based on good engineering judgment. If the compliance plan is disapproved, the Executive Officer shall inform the railway carrier of the reasons for the disapproval. The railway carrier may revise the compliance plan to address the basis for disapproval and resubmit the compliance plan for EO approval or disapproval.

(5) The railway carrier shall maintain records collected pursuant to the approved compliance plan for a period of at least three (3) years and make these records available to ARB upon request.

(f) Railway carriers are exempt from the owner or owner/operator requirements of section 2477.5 for any TRU or TRU gen set that is not owned by the railway carrier, provided:

(1) The TRU or TRU gen set is not leased by the railway carrier, in which case, section 2477.12 applies; or

(2) The railway carrier or its agent is only fueling, monitoring to assure proper operation, keeping in operation, arranging repairs at the request of the owner, or restarting the TRU or TRU gen set engine after an unscheduled shut-down or repair, and is not performing any of the other activities listed under the definition of “operate”.

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