

# **Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information**

## **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: September 23, 2021  
Public Availability Date: December 22, 2021  
Deadline for Public Comment: January 6, 2022

At its September 23, 2021, public hearing, the California Air Resources Board (CARB or Board) considered staff's proposed amendments to sections 2477, 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, Title 13, California Code of Regulations, and proposed adoption of sections 2477.22, 2477.23, and 2477.24, Title 13, California Code of Regulations (collectively, Proposed Amendments). The Proposed Amendments would amend the existing Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate to require the transition of diesel-powered truck TRUs to zero-emission, a particulate matter emission standard for newly-manufactured non-truck TRU engines, the use of lower global warming potential refrigerant, facility registration and reporting, expanded TRU reporting and labeling, and fees.

At the hearing, staff presented potential modifications to the regulatory language, developed in response to comments received since the Initial Statement of Reasons was released to the public on July 27, 2021. These included updates to staff assumptions on TRU turnover and new sales populations, updates to the TRU operating and applicable facility registration fee amounts, and the addition of zero-emission truck TRU assurances.

The Board directed the Executive Officer to determine if additional conforming modifications to the regulation were appropriate and to make any proposed modified

regulatory language available for public comment, with any additional supporting documents and information, for a period of at least 15 days in accordance with Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Board further directed the Executive Officer to evaluate all comments received during the public comment periods, including comments raising significant environmental issues, and prepare written responses to such comments as required by CARB's certified regulations at California Code of Regulations, title 17, sections 60000-60007 and Government Code section 11346.9, subdivision (a). The Board further directed the Executive Officer to present to the Board, at a subsequently scheduled public hearing, staff's written responses to environmental comments and the final environmental analysis for consideration for approval, along with the finalized amendments for consideration for adoption.

The resolution and all other regulatory documents for this rulemaking are available online at the following [CARB website](https://ww2.arb.ca.gov/rulemaking/2021/tru2021):  
<https://ww2.arb.ca.gov/rulemaking/2021/tru2021>

The text of the modified regulatory language is shown in Appendices A.1, A.2, B.1, and B.2. In Appendix A.1, the original regulatory language as currently printed in the CCR is shown in "normal type." Deletions and additions to the original regulatory language are shown in ~~striketrough~~ to indicate deletions and underline to indicate additions. In Appendix A.2, the originally proposed regulatory language as posted on July 27, 2021, is shown in "normal type." New deletions and additions to the originally proposed regulatory language are shown in ~~striketrough~~ to indicate deletions and underline to indicate additions. For ease of accessibility, Microsoft Word versions are also being provided as alternate versions for Appendices A.1 and A.2, as Appendices B.1 and B.2, respectively. Appendices A.1 and A.2 are the authoritative versions to comply with the Administrative Procedure Act while Appendices B.1 and B.2 are being provided as alternate versions for increased accessibility.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this 15-day comment period that are responsive to this notice, documents added to the record, or the changes detailed in Appendices A.1, A.2, B.1, and B.2.

## **Summary of Proposed Modifications**

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all the non-substantive revisions made to improve clarity.

1. Modifications to Section 2477.4 Definitions
  - a. "Intermodal Facility" - staff propose to replace "loading and unloading" with "transfer of." This change is necessary to make the definition of "Intermodal Facility" consistent with other CARB regulations.
  - b. "Statement of Accuracy" - staff propose to delete this definition. This is necessary because staff are proposing to delete the requirement to include a statement of accuracy with information submitted to CARB, thereby removing the term "Statement of Accuracy" from the regulatory text. Staff are proposing to replace the statement of accuracy requirement with new language in section 2477.19 to specify that any person or entity who fails to submit any information, report, or statement accurately and correctly, or who submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this TRU Regulation may be cited and subject to the penalty provisions set forth in Health and Safety Code sections 39674, 39675, 42400 et seq., 42402 et seq., and 42410.
2. Modifications to Section 2477.5 Requirements for Owners or Owner/Operators
  - a. In section 2477.5(n)(1), staff propose to extend the compliance extension due to private financing, equipment manufacture delays, or installer delays from a maximum of four months to six months. This change is necessary to provide TRU owners or owner/operators additional time to comply with the requirements in section 2477.5 (a), (b), (c), and (d) due to delays related to current supply chain issues.
3. Modifications to Section 2477.12 Requirements for Lessors and Lessees
  - a. In section 2477.12(a)(1)(A), staff propose to delete "(g), (h), and (i) to the lessee." This change is necessary to be consistent with the definition of "Owner" and to clarify the original intent to allow TRU owners (lessors) to delegate compliance responsibility for all the requirements in section 2477.5 to the TRU operator (lessee) if the rental or lease agreement is for a period of one year or longer. As originally written, section 2477.12 only allowed owners to delegate the TRU reporting, operating fee, and compliance label requirements in section 2477.5(g), (h), and (i). This change is in response to 45-day comments asking for additional clarity on the requirements for lessors and lessees and is consistent with other CARB regulations.
  - b. In section 2477.12(a)(1)(A)1., staff propose to delete "reporting, operating fee, and compliance label." This change is necessary for the same reasons described for the changes to section 2477.12(a)(1)(A).
  - c. Staff propose to delete section 2477.12(a)(1)(B). This change is necessary for the same reasons described for the changes to section 2477.12(a)(1)(A).

4. Modifications to Section 2477.13. Requirements for TRU, TRU Gen Set, and ZE Truck TRU Original Equipment Manufacturers
  - a. In section 2477.13(b)(1), staff propose to add language requiring TRU original equipment manufacturers (OEM) to warrant the zero-emission truck TRUs they produce for three years or 5,000 hours of compressor time (whichever occurs first) and have an authorized service-and-repair facility located in California to perform warranty repairs. The warranty shall be comprehensive and cover all parts of the zero-emission truck TRU. The zero-emission truck TRU industry is an emerging market and there will likely be variability in product quality and support. In the absence of a formal CARB zero-emission certification process for off-road equipment, the proposed language is necessary to help ensure that zero-emission truck TRUs will function as intended and support is available when equipment issues arise.
5. Modifications to Section 2477.19 Non-Compliance and Penalties
  - a. In section 2477.19(a), staff propose to modify the language to specify when failure to submit information or submitting false statements or making false representations would be considered a violation of the TRU Regulation. The proposed language is consistent with non-compliance and penalty provisions in other CARB regulations.
  - b. In section 2477.19(b), staff propose to add language to specify what sections control assessment of penalties for violation of the TRU Regulation so that stakeholders may understand what penalties they may be subject to under the Proposed Amendments.
  - c. In section 2477.19(c) and section 2477.19(d), staff propose to modify the language to better demonstrate the original intent to hold the owner of a TRU or TRU generator set cited for non-compliance when neither the owner nor the operator can produce evidence of the party responsible for compliance with State laws. Similarly, if an applicable facility is cited for non-compliance and neither the owner nor the operator can produce evidence of the party responsible for compliance with State laws, then the owner of the applicable facility in violation shall be liable for any non-compliance. The proposed change is in response to 45-day comments asking for additional clarity on the originally proposed non-compliance and penalty provisions.
  - d. In section 2477.19(e), staff propose a grammatical change, by using “and,” to indicate that each clause in the list is a separate violation of the regulation.
6. Modifications to Section 2477.20 Reporting
  - a. In section 2477.20(c), staff propose to delete the statement of accuracy requirement and add language to put reporting entities on notice that

- failure to ensure that reported data is accurate and correct may result in penalties as outlined in section 2477.19. Staff are proposing to replace the statement of accuracy requirement with new language in section 2477.19 to specify that any person or entity who fails to submit any information, report, or statement accurately and correctly, or who submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this chapter may be cited and subject to the penalty provisions set forth in Health and Safety Code sections 39674, 39675, 42400 et seq., 42402 et seq., and 42410. These changes are necessary to ensure that CARB can deter and penalize false reporting and serve as a reminder to potential reporting entities that may be reviewing this reporting section in order to report, but have not seen the noncompliance and penalty provisions in section 2477.19.
- b. In section 2477.20(k)(7), staff propose to delete “reporting to CARB, paying TRU operating fees, and affixing CARB labels” and add “with this TRU Regulation.” The proposed changes would require lease contracts to identify the lessee as the responsible party for compliance with all the requirements of the TRU Regulation, not just the TRU reporting, operating fee, and compliance label requirements. This change is necessary to be consistent with changes to section 2477.12 which would allow TRU owners (lessors) to delegate compliance responsibility for all the requirements in section 2477.5 to the operator (lessee) if the rental or lease agreement is for a period of one year or longer.
  - c. Staff propose to delete section 2477.20(k)(8). This section is no longer applicable after changes to section 2477.12 to allow TRU owners (lessors) to delegate compliance responsibility for all the requirements in section 2477.5 to the operator (lessee) if the rental or lease agreement is for a period of one year or longer.
  - d. In section 2477.20(m)(2)(A), staff propose to modify the language to allow facility owners or owner/operators to report the CARB identification number (IDN) or an alternative unique equipment identification number, regardless of whether the alternative unique equipment identification number has been reported to CARB. As originally written, facility owners or owner/operators would have only been allowed to report the alternative unique equipment identification number in place of the CARB IDN if the alternative unique equipment identification number is reported by the TRU owner to CARB, which would require facility owners or owner/operators to know whether the TRU owner reported the alternative unique equipment identification number to CARB. This change is in response to 45-day comments from stakeholders stating that they record alternative unique equipment identification numbers for all shipments regardless of how the TRU is reported by the equipment owner to CARB and that it would be difficult to implement procedures to collect CARB IDNs accurately and completely for every TRU entering their facility.

- e. In section 2477.20(m)(2)(E)3., staff propose to add language to allow facility owners or owner/operators to report the motor carrier number, United States Department of Transportation number, or carrier identification number as an alternative to the truck owner/tractor owner's company name. This change is in response to stakeholder requests to allow facility owners or owner/operators to report alternative information already collected as part of their normal business practice.
- f. In section 2477(m)(3)(A) and section 2477(m)(4)(A), staff propose to modify the language to allow facility owners or owner/operators to report the CARB IDN or an alternative unique equipment identification number, regardless of whether the alternative unique equipment identification number has been reported to CARB. These changes are necessary for the same reasons described for the changes to section 2477.20(m)(2)(A).
- g. In section 2477.20(m)(4)(D)3., staff propose to add the word "owner" and language to allow facility owners or owner/operators to report the motor carrier number, United States Department of Transportation number, or carrier identification number as an alternative to the truck owner/tractor owner's company name. The addition of the word "owner" is necessary to be consistent with the use of "truck owner/tractor owner" in section 2477.20(m)(2)(E)3. The remaining changes are in response to stakeholder requests to allow facility owners or owner/operators to report alternative information already collected as part of their normal business practice.

#### 7. Modifications to Section 2477.21 Fees

- a. In section 2477.21(a)(3) and section 2477.21(b)(3), staff propose to modify Table 5 and Table 6 to update the TRU operating and applicable facility registration fee from \$54 to \$45 and the zero-emission TRU operating fee from \$27 to \$23. The proposed fees will result in revenue to the State to cover its reasonable costs associated with the certification, audit, and compliance of TRUs. The updated fee amounts reflect a lower cost to the State as a result of changes to new sales populations and postage costs, as well as removal of the additional cost to CARB for indirect labor.
- b. In section 2477.21(c), staff propose to add language to establish that if any of the fee provisions in section 2477.21 are deemed invalid, unconstitutional, or unenforceable, the Executive Officer shall continue to assess and collect payments from unaffected parties and the remainder of the TRU Regulation shall continue to be in effect. This is needed because it ensures that a successful legal challenge to any one particular fee provision will not necessarily void the remaining fee provisions or the remainder of the TRU Regulation.

In addition to the modifications described above, additional modifications correcting capitalization, formatting, numbering of sections, and punctuation have been made throughout the proposed changes. These changes are non-substantive. Below is a summary of the non-substantive changes staff made.

1. Section 2477.3(c)(1) and Section 2477.3(c)(2) – Staff capitalized the word “Transport” for formatting consistency.
2. Section 2477.14(b)(5)(C)10. – Staff deleted an extra space before the word “Dealer.”
3. Section 2477.19 – Staff renumbered subsections accordingly due to added language as of this notice of proposed changes.
4. Section 2477.19(c) – Staff added a period after the word “non-compliance.”

The proposed modifications do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis included in the Staff Report because the modifications consist primarily of provision clarifications, changes to proposed fee amounts, and the addition of administrative requirements that do not alter the compliance responses identified in the environmental analysis. The environmental analysis’ findings, overall significance conclusions, mitigation measures, and alternatives adequately address the environmental review for the proposed modifications, so no additional environmental analysis or recirculation of the analysis is required.

## **Additional Documents Added to the Record**

In the interest of completeness and in accordance with Government Code section 11347.1, subdivision (a), staff have also added to the rulemaking record and invites comments on the following additional documents:

- Summary of Proposed 15-Day Changes and Updated Economic Analysis (included as Appendix C to this notice).
- Updated Fees (included as Appendix D to this notice).

These documents are available for inspection at the California Air Resources Board, 1001 I Street, Sacramento, California, 95814, between the hours of 9:00am to 4:00pm, Monday through Friday (excluding holidays). To inspect these documents please contact Chris Hopkins, Regulations Coordinator, at (279) 208-7347.

## **Agency Contacts**

Inquiries concerning the substance of the Proposed Amendments may be directed to Lea Yamashita, Staff Air Pollution Specialist, Freight Operations Section at [Lea.Yamashita@arb.ca.gov](mailto:Lea.Yamashita@arb.ca.gov) or Cari Anderson, Chief, Freight Transport Branch at [Cari.Anderson@arb.ca.gov](mailto:Cari.Anderson@arb.ca.gov).

## Public Comments

Written comments will only be accepted on the proposed modifications identified in this notice. Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

Postal mail: Clerks' Office, California Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <https://www.arb.ca.gov/lispub/comm/bclist.php>

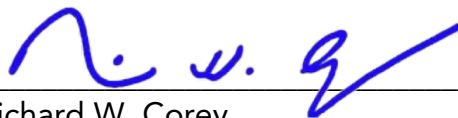
Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB no later than the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerks' Office at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

California Air Resources Board



Richard W. Corey  
Executive Officer

Date: December 22, 2021

Attachments

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see [CARB's website](http://www.arb.ca.gov) (www.arb.ca.gov).*