

# 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 Dates: September 23, 2021, and February 24, 2022  
Agenda Item No.: 21-9-5 and 22-3-3  
Addendum Prepared: July 18, 2022

### I. General

This addendum to the Final Statement of Reasons (FSOR) for the rulemaking action entitled “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” updates the original FSOR that the California Air Resources Board (CARB) submitted to the Office of Administrative Law (OAL) on June 3, 2022.

### II. Non-Substantial Modifications

The non-substantial modifications described below clarify and do not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the Proposed Amendments, as approved for adoption by CARB. (See Cal. Code Regs., tit. 1, § 40)

After the June 3, 2022, submittal of the FSOR to OAL, the following non-substantial modifications were made to the Final Regulation Order:

- Updated/replaced all instances of “this regulation” in sections 2477 through 2477.24 of the regulatory text with “this TRU Regulation” to improve clarity and dispel any possible doubt as to what exactly is subject to “this regulation” (TRU Regulation – being sections 2477-2477.24 as defined in section 2477)
- In section 2477, added strikethrough to “[Renumbered]” to remove this language from the heading of this section. This section was previously

renumbered and thus had no regulatory language; however, now that language has been added to this section with this rulemaking the previous “[Renumbered]” language is antiquated and thus can be removed.

- In subsection 2477.4(a), updated language to formally incorporate the subsection of the CFR that defines “Class I Railroad.”
- In subsection 2477.4(a), updated language to formally incorporate two documents relating to the definition of “Global Warming Potential.”
- In subsections 2477.5(g)(1), 2477.5(g)(5), 2477.7(a), 2477.8(a), 2477.10(a), 2477.11(a), 2477.13(d), 2477.13(e), and 2477.14(a), struck dates that have passed so as not to confuse when stakeholders must comply with the amended requirements (amended requirements cannot be retroactive).
- In section 2477.20 and Section 2477.21 – The FSOR noted that CARB staff added “Authority cited” citations to the end of each section (which were inadvertently omitted from previous versions of the regulatory text), but the FSOR failed to mention that “Reference” citations were also added at that time.

### **III. Documents Incorporated by Reference**

In subsection 2477.4(a), CARB is formally incorporating three documents for the following definitions:

- 49 Code of Federal Regulations section 1201, General Instructions 1–1 Classification of carriers. (April 5, 2021. Incorporated in 2477.4(a) “Class I Railroad”
- (IPCC, 2007) Intergovernmental Panel on Climate Change’s Fourth Assessment Report. Forster, P., V. Ramaswamy, P. Artaxo, T. Berntsen, R. Betts, D.W. Fahey, J. Haywood, J. Lean, D.C. Lowe, G. Myhre, J. Nganga, R. Prinn, G. Raga, M. Schulz and R. Van Dorland, 2007: Changes in Atmospheric Constituents and in Radiative Forcing. In: Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M.Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Incorporated in 2477.4(a) “Global Warming Potential (GWP)”
- (IPCC, 2013) Intergovernmental Panel on Climate Change’s Fifth Assessment Report. Myhre, G., D. Shindell, F.-M. Bréon, W. Collins, J. Fuglestvedt, J. Huang, D. Koch, J.-F. Lamarque, D. Lee, B. Mendoza, T. Nakajima, A. Robock, G. Stephens, T. Takemura and H. Zhang, 2013: Anthropogenic and Natural Radiative Forcing. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and

New York, NY, USA) pgs 731-738. Incorporated in 2477.4(a) "Global Warming Potential (GWP)"

These documents were incorporated by reference because it would be cumbersome, unduly expensive, and otherwise impractical to publish it in the California Code of Regulations. The document is a lengthy and highly technical document that would add unnecessary additional volume to the regulation. Distribution to all recipients of the California Code of Regulations is not needed because the interested audience for this document is limited to the technical staff at a portion of reporting facilities, most of whom are already familiar with this document. Also, the incorporated document was made available by CARB upon request during the rulemaking action, and the incorporated document will continue to be available in the future. The document is also available from college and public libraries, or may be purchased directly from the publishers.

#### **IV. Modifications to the Original Summary of Comments and Agency Responses in the FSOR**

Comment 50: CARB needs to promptly analyze proven and real climate solutions, rather than support carbon storage and utilization technologies that are clearly a public subsidy for the continued operations of the fossil fuel industry. CCUS [Carbon Capture, Utilization and Storage] fails to address climate change and health disparities; it does not meet the goals of AB 32 or AB 197; it is an expensive false solution path that will perpetuate our dependence on fossil fuels; and it will be primarily utilized as polluter subsidies for Enhanced Oil Recovery (EOR), continued oil extraction, and the conversion/expansion of farmlands to grow fuel (corn ethanol). (EJS)

Updated Agency Response: This comment was submitted in response to CARB's public workshop on August 2, 2021, regarding Carbon Capture, Utilization and Storage (CCUS) technologies. Neither the workshop nor the technologies are relevant to this TRU ATCM rulemaking (i.e., was not "specifically directed at the agency's proposed action" per Gov. Code 11346.9(a)(3)), therefore, CARB is not required to respond.

#### **V. Supplemental Rationale/Necessity for the Initial Statement of Reasons (ISOR)**

- In subsection 2477.4(a), "Applicable Facility Owner," the Proposed Amendments allow applicable facility owners to delegate compliance responsibility to the applicable facility operator. This delegation is necessary because although an applicable facility owner may be the legal owner of the facility, another entity may be the owner of the business that is involved in the operation of TRUs. In such cases, the business owner (applicable facility

operator) should be responsible for compliance with the TRU ATCM, which includes requirements for registering the facility with CARB, paying applicable facility registration fees to CARB, and ensuring compliance of TRUs operating onsite.