

December 29, 2022

The Honorable Michael Regan, Administrator
United States Environmental Protection Agency
Office of the Administrator
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

RE: Request for Authorization Action Pursuant to Clean Air Act Section 209(e)(2) for the 2022 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

Dear Administrator Regan:

I am writing to request that the United States Environmental Protection Agency (EPA) grant California an authorization, pursuant to section 209(e)(2) of the federal Clean Air Act, for the 2022 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 (2022 Amendments).

I am also making additional findings in this letter regarding the stringency of California's nonroad engine and equipment emissions standards, in the aggregate, relative to applicable federal nonroad engine and equipment emissions standards.

Section 39516 of the California Health and Safety Code and Board Resolution 78-10 authorize me to make the findings specified in section 209(e)(2)(A) of the federal Clean Air Act on behalf of the Board. Pursuant to that authority, I have determined that the requirements related to the control of emissions associated with the 2022 Amendments will not cause California's nonroad engine and equipment emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards.

As explained in the accompanying authorization support document, EPA has already determined that California's preexisting emission standards and other emissions-related requirements, including those applicable to TRUs and TRU generator sets, are, in the aggregate, at least as protective of public health and welfare as applicable federal standards.

The 2022 Amendments require the transition of diesel-powered truck TRUs to zero-emission technology, a particulate matter (PM) emission standard for newly-manufactured non-truck TRU engines, and the use of lower-global warming potential refrigerant. The amendments also strengthen the regulation by including new requirements for owners and operators of facilities where TRUs operate, vehicle owners of trucks or tractor-trailers equipped with TRUs that operate in California, out-of-state-based TRU reporting, and TRU labeling to support compliance monitoring and enforcement. The 2022 Amendments will reduce emissions of oxides of nitrogen, fine particulate matter, and greenhouse gases by approximately

3,515 tons, 1,258 tons, and 1.42 million metric tons of carbon dioxide equivalent throughout the state, respectively, by 2034.

The emissions standards and other emission-related requirements established by the 2022 Amendments are more stringent than any applicable federal requirements. For new non-truck TRU engines greater than 25 horsepower, the 0.02 g/hp-hr PM emission standard is at least as protective as the corresponding federal standard for new engines.¹ For new non-truck TRU engines less than 25 horsepower, the 0.02 g/hp-hr PM emission standard is more protective than the corresponding federal standard for new engines.² The in-use performance standards established by the 2022 Amendments are more stringent than federal standards because EPA lacks authority to regulate in-use TRUs or TRU engines.³ Furthermore, because California's preexisting TRU regulation does not require TRUs to meet zero-emission standards or to utilize lower global warming refrigerant, it is evident that the 2022 Amendments will, in conjunction with other elements of California's nonroad engine and equipment emissions control program, render California's nonroad engine and equipment emissions standards, in the aggregate, to be at least as protective of public health and welfare as applicable federal standards.

I am also enclosing our authorization analysis, which includes a description of California's rulemaking action, a review of the criteria governing EPA's evaluation of California's request for authorization action, our analysis and rationale supporting our request, and supporting documents.

If you need additional technical information on this item, please contact Rich Boyd, Assistant Division Chief of CARB's Transportation and Toxics Division, at Richard.Boyd@arb.ca.gov. You may address legal questions to Rhead Enion, Senior Attorney, at Rhead.Enion@arb.ca.gov, or Alex Wang, Senior Attorney, at Alex.Wang@arb.ca.gov.

Sincerely,



Steven S. Cliff, Ph.D., Executive Officer

Enclosures

cc: See next page.

¹ For TRU engines rated between 25 and 50 horsepower, the EPA Tier 4 final nonroad diesel engine standards specify a PM emissions standard of 0.022 g/bhp-hr.

² For TRU engines rated between 11 and 25 horsepower, the EPA Tier 4 final nonroad diesel engine standards specify a PM emissions standard of 0.30 g/bhp-hr.

³ CAA section 213; *EMA v. EPA*, (D.C. Cir. 1996) 88 F.3d 1075; *Authorization of In-Use Emission Standards for Transport Refrigeration Unit Engines*, Decision Document (Decision Document), at pp. 13-14 and 18. "Indeed, California standards may be most clearly 'at least as protective' when they are compared to the absence of Federal emission standards." 74 Fed. Reg. 32744, 32755 (July 8, 2009).

cc: Joseph Goffman (w/enclosures)
Principal Deputy Assistant Administrator
United States Environmental Protection Agency
Office of Air and Radiation
Mail Code 1101A
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460
Goffman.Joseph@epa.gov

Sarah Dunham, Director (w/enclosures)
United States Environmental Protection Agency
Office of Transportation and Air Quality
Mail Code 6401A
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460
Dunham.Sarah@epa.gov

Karl Simon, Director (w/enclosures)
United States Environmental Protection Agency
Office of Transportation and Air Quality
Transportation and Climate Division
Mail Code 6401A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
Simon.Karl@epa.gov

David Dickinson, Attorney/Advisor (w/enclosures)
United States Environmental Protection Agency
Office of Transportation and Air Quality
Mail Code 6405J
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
Dickinson.David@epa.gov

Rhead Enion, Senior Attorney (w/o enclosures), Legal Office

Alex Wang, Senior Attorney (w/o enclosures), Legal Office

Rich Boyd, Assistant Division Chief (w/o enclosures), Transportation and Toxics
Division