

State of California
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text and
Availability of Additional Documents and Information**

PUBLIC HEARING TO CONSIDER ADOPTION OF AN 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:	December 11, 2003 February 26, 2004
Public Availability of Modified Text Date:	April 5, 2004
Deadline for Public Comment:	April 30, 2004

At a public hearing on February 26, 2004, the Air Resources Board (the "Board" or ARB) approved the adoption of Section 2022 of California Code of Regulations (CCR), title 13, article 4, chapter 3, division 3. This rulemaking was originally heard on December 11, 2003, and continued to February 26, 2004, to provide for the required review directed by Executive Order S-2-03. The approved section 2022 is an airborne toxic control measure (ATCM) that will reduce public exposure to diesel exhaust particulate matter (diesel PM) and other toxic air contaminants (TACs) from in-use TRU and TRU generator sets that operate in California. The proposed ATCM is described in detail in the Initial Statement of Reasons released to the public on October 24, 2003.

At the hearing on February 26, 2004, the staff presented, and the Board approved, minor modifications proposed in response to comments received during the public comment period that began on October 24, 2003, and ended at the hearing on February 26, 2004.

The text of the modified regulatory language is shown in Attachment 1. Deletions and additions to the originally proposed language that were made public on October 24, 2003 are shown in ~~strike-through~~ and underline format, respectively.

The following is a summary of these modifications and staff's rationale for making them:

- A. Language was added to the applicability subsection (b), subparagraph (1) for owners and operators of TRUs operated in California to clarify that the requirements of the ATCM applied to operators of California-based and non-California-based TRUs and TRU generators sets.
- B. The definition of "Alternative Diesel Fuel" was modified to be consistent with the definitions used in the *Verification Procedure, Warranty and In-*

Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (13 CCR section 2701).

- C. The definition of "California-Based TRUs and TRU Generator Sets" was modified to improve clarity.
- D. The definition of "CARB Diesel Fuel" was modified to be consistent with the definitions now used in the stationary engine ATCM.
- E. Definitions for "Certification," "Certification Data", "Deterioration Factor," "Non-California-Based TRUs and TRU Generator Sets," and "Tier 4 Nonroad/Offroad Emissions Standards" were added to improve clarity to subsection (e)(1)(A).
- F. The definitions for "Cryogenic Temperature Control System" and "Hybrid Cryogenic Temperature Control System" were modified in response to a comment asking that the definition be clarified.
- G. The definition for "Diesel Fuel" was modified to be consistent with the new definitions in 13 CCR, sections 2281(b)(1) and 2281(b)(3).
- H. The definition of "Intermodal Facility" was modified to be specific to "refrigerated" shipping containers.
- I. The definition for "Refrigerated Shipping Container" was deleted and replaced with the more general reference and definition of "Refrigerated Trailer" which includes the reference to shipping containers as a type of refrigerated trailer. The reference to refrigerated trailers is consistent with California Health and Safety Code section 39618.
- J. Sections (e)(1)(A)(i)a.1. and (e)(1)(A)(ii)a.1. were modified so that compliance can be achieved by using any certified in-use engine that meets the applicable nonroad/offroad standards for all regulated pollutants and the in-use performance standards, taking into account deterioration factors when determining compliance.
- K. Footnotes 1, 3, and 4 were added to improve clarity by indicating that the proposed in-use performance standards are aligned with the proposed federal interim Tier 4 standards for new nonroad engines.
- L. Section (e)(1)(A)(iii)d. was modified by adding "CARB diesel fuel" to improve clarity.
- M. The application information required for issuing an ARB Identification Number pursuant to subsection (e)(1)(E)(i)a. was modified to improve clarity.

- N. The fuel requirements in subsection (e)(2)(A) were modified to be consistent with the changes in the definitions described above in paragraphs B, D, and G.
- O. Language in the operator reporting subsection (f)(1)(A)(i)c. was modified to improve clarity.
- P. The word "shipping" was added to subparagraph (f)(2)(A)(viii) to improve clarity.
- Q. Subparagraph (f)(2)(A)(xii) was added to the facility reporting requirements to require the reporting of the number of refrigerated trailers used for cold storage and their annual hours of operation. This would provide data on a practice that may contribute to near-source risk.
- R. Subsection (h) was added to reference the specific Health and Safety Code sections addressing penalties.
- S. Additional authority and reference citations were added to the Authority and Reference section for the purpose of being comprehensive.

In addition, the ATCM has been modified to correct spelling and typographical errors and to make adjustments to the outline notation.

In the interests of completeness, staff has also added to the rulemaking record and invites comments on the following additional documents and information:

1. Several comments that have been received have referred to the International Registration Plan (IRP) database. Following-up on those comments, staff requested information from the IRP section of the Department of Motor Vehicles. Data was received from the following reference that confirmed there is no current, definitive database that provides a reliable number of refrigerated trailers that may visit California.

Clark, 2004. Jennifer Clark, IRP Operations Manager, Dept. of Motor Vehicles, to Jon Manji, ARB, Stationary Source Division, *Personal Communication (Electronic Mail)*, Sacramento, California, March 4, 2004.

2. Staff research from the references listed below also revealed several estimates of the percentage of trailers on California highways that are refrigerated to be between 4 percent and 23 percent.

Coffman, 2004. Zail Coffman, Santa Barbara Electric Transportation Institute, to Rod Hill, ARB Stationary Source Division, *Personal Communication (Electronic Mail)*, Sacramento, California, February 10, 2004.

Faucett, 2002. Jack Faucett Associates, *Heavy-Duty Vehicle Fleet Characterization for Reduction of NOx and Particulate Matter Emissions in the South Coast Air Basin*; Prepared for California Air Resources Board, April 2002, JACKFAU-02-558.

Wilson, 2004. Bob Wilson, IdleAire, to Rod Hill, ARB Stationary Source Division, *Personal Communication (Electronic Mail)*, Sacramento, California, February 10, 2004.

3. Staff research on the references listed below revealed that between 1996 and 2000, from 14 percent to 26 percent of the trailers manufactured in the U.S. were insulated (refrigerated).

U.S. Census Bureau; Manufacturing, Mining, and Construction Statistics; Truck Trailers Summary, Table 2 and Table 4; 2000 (M336L(00)-13), www.census.gov/cir/www/336/m336l.html, then click on 2000.

U.S. Census Bureau; Manufacturing, Mining, and Construction Statistics; Truck Trailers Summary, Table 2 and Table 4; 1999 (M336L(99)-13), www.census.gov/cir/www/336/m336l.html, then click on 1999.

U.S. Census Bureau; Manufacturing, Mining, and Construction Statistics; Truck Trailers Summary, Table 2 and Table 4; 1998 (M336L(98)-13), www.census.gov/cir/www/336/m336l.html, then click on 1998.

U.S. Census Bureau; Manufacturing, Mining, and Construction Statistics; Truck Trailers Summary, Table 2 and Table 4; 1997 (M336L(97)-13), www.census.gov/cir/www/336/m336l.html, then click on 1997.

4. The *Initial Statement of Reasons* was released to the public on October 24, 2003. A revised version of the ISOR and an errata were made available for public review on October 28, 2003. In November 2003, an Excel spreadsheet file for Appendix G of the ISOR's cost evaluation was posted on the web to be available for public review and comment. Attachment 2 of this 15-Day Notice is staff's Supplemental Economic Analysis, dated April 2004, which discusses changes to the economic analysis. This information was the basis for cost and cost-effectiveness slides used in staff's presentations on December 11, 2003 and February 26, 2004.
5. Chapter VI of the *Initial Statement of Reasons* discusses the availability and technical feasibility of control measures. For the sake of completeness, staff is adding the following additional reference, as it pertains to the 25 to 50 horsepower and less than 25 horsepower diesel engine categories.

U.S. Environmental Protection Agency, *Draft Regulatory Impact Analysis: Control of Emissions from Nonroad Diesel Engines*, Assessment and Standards Division, Office of Transportation and Air Quality, Document Number: EPA420-R-03-008, pages 4-1 to 4-83, April 2003, <http://www.epa.gov/nonroad/r03008.pdf>.

By this notice, the modified regulation and additional documents and information are being made available for public comment prior to the final action by the Board's Executive Officer.

Attached to this notice is Attachment 3, Board Resolution 03-37, which approves the regulatory action.

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt section 2022, title 13, California Code of Regulations, after making the modified language available to the public for comment for a period of at least fifteen (15) days, provided the Executive Officer consider such written comments as may be submitted during this period, make such modifications as may be appropriate in light of the comments received, and present the modified regulation to the Board for further consideration, if warranted.

Written and e-mail comments on the modifications shown in Attachment 1 must be received no later than April 30, 2004, in order to be considered by the Executive Officer prior to final action. Only comments relating to the modifications described in this notice shall be considered by the Executive Officer. Written comments must be addressed to the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812. E-mailed comments must be addressed to: trude03@listserv.arb.ca.gov.

Attachments