

**** Proposed Draft ATCM Concepts (November 19, 2002)****

[At the September 4, 2002 TRU Workgroup meeting, ARB staff presented revised regulatory concepts based upon comments received on our May 2002 regulatory concepts. At the September meeting, we discussed a revised approach that would require progressively more stringent new engine standards for TRUs, require fleet operators to reduce emissions from their existing fleets over time, and require facilities to systematically provide the infrastructure to support low-emission TRUs. The Workgroup supported the proposed regulatory concepts and agreed that ARB staff should develop draft regulatory language to allow the Workgroup to focus on how the regulatory concepts might be implemented. This Proposed Draft ATCM (November 2002) is our attempt to convert the regulatory concepts into regulatory language.]

These Draft ATCM Concepts (November 2002) do not address TRUs used in the growing of crops or the raising of fowl. ARB staff is working with the Agricultural Working Group to gather information and examine issues associated with TRUs used in agricultural operations to determine how best to address this group of TRUs.

Staff are interested in comments relevant to all of the concepts proposed herein. This is NOT final regulatory language.]

Adopt new Section XXXX, Title 17, Chapter Y, Article Z, California Code of Regulations, to read as follows: (Note: the entire text of section XXXX set forth below is new language proposed to be added to the California Code of Regulations.)

- (a) Purpose. Diesel particulate matter (PM) was identified in 1998 as a toxic air contaminant. This regulation implements provisions of the Diesel Risk Reduction Plan, adopted by the Air Resources Board in October, 2000, as mandated by the Health and Safety Code Sections 39650-39675, to reduce emissions of substances that have been determined to be toxic air contaminants. Specifically, this regulation will use a phased approach to reduce the PM emissions from new and in-use transport refrigeration units (TRUs) at facilities frequented by TRUs. Emissions from new and in-use TRU generator (gen) sets will also be reduced.
- (b) Applicability.
 - (1) Except as provided in subsection (c), this regulation applies to any person who sells or offers for sale for use in California any new TRU engines or TRU generator set engines used on refrigerated truck vans, refrigerated trailer vans, refrigerated shipping containers, and refrigerated railcars. Subsection (e)(1) lists applicable requirements and compliance schedule.
 - (2) Except as provided in subsection (c), this regulation applies to TRU fleet owner/operators and lessors (TRU fleet operators that own TRUs and TRU

owners that lease TRUs to TRU fleet operators) that operate in the State of California, specifically truck and trailer TRU fleet owner/operators and lessors, refrigerated shipping container TRU fleet owner/operators and lessors, TRU generator set fleet owner/operators and lessors, and refrigerated railcar owner/operators and lessors. Subsection (e)(2) lists applicable requirements and compliance schedules. Subsection (f)(1) lists applicable recordkeeping and reporting requirements.

- (3) Except as provided in subsection (c), this regulation applies to facilities located in the State of California that are frequented by truck-mounted TRUs, trailer-mounted TRUs, refrigerated shipping container TRUs, and refrigerated rail car TRUs where perishable goods are loaded or unloaded. In addition, except as provided in subsection (c), this regulation applies to port and railroad refrigerated container staging areas and intermodal facilities. Subsection (e)(3) lists the requirements and compliance schedule. Subsection (f)(2) lists monitoring, recordkeeping and reporting requirements.
- (4) Except as provided in subsection (c), this regulation applies to all TRU fuel tanks and their fueling. Subsections (e)(4) lists the requirements and compliance dates.

(c) Exemptions.

- (1) This regulation does not apply to military tactical support equipment.
- (2) This regulation does not apply to TRUs or TRU generator sets that pass through the State of California and do not stop at an affected facility.

(d) Definitions. For purposes of this regulation, the following definitions apply:

- (1) “Active TRU or TRU Generator Set” means operationally active. To qualify to be counted as an active TRU or TRU generator set, all of the following criteria must be met:
 - (A) Truck and trailer TRUs:
 - (i) Currently registered with the DMV, and
 - (ii) Currently registered in the Biennial Inspection Terminal program, and
 - (iii) The TRU is operational.
 - (B) Container TRUs: [similar registrations and inspections?]
 - (C) Reefer Railcar TRUs: [similar registrations and inspections?]
- (2) “Alternative Fuel” means natural gas, propane, ethanol, methanol, electricity, fuel cells, or advanced technologies that do not rely on diesel fuel, except as a pilot ignition source at an average ratio of less than 10 part diesel fuel to 10 parts total fuel on an energy equivalent basis. Alternative fuels also means any of these fuels used in combination with each other or in combination with other

non-diesel fuels. TRU and TRU generator sets operating on alternative fuel may not have the capability of idling or operating solely on diesel fuel at any time.

- (3) “Alternative Diesel Fuel” means any fuel used in compression ignition engines that is not a diesel fuel, in whole or in part, as defined in *Sections 2281 and 2282 of Title 13 of the California Code of Regulations (CCR)*, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g. recalibration of the engine fuel control) may enhance performance. Alternative diesel fuels include, but are not limited to, B100 biodiesel and ultra-low-aromatic synthetic diesel fuel (see definitions herein). For the purposes of this regulation, water emulsion diesel fuels and biodiesel blends (e.g. B20) are not alternative diesel fuels, since they contain diesel fuel fractions.
- (4) “ARB” means the California Air Resources Board.
- (5) “B100 Biodiesel Fuel” means 100% biodiesel fuel derived from vegetable oil or animal fat and complying with ASTM D 6751-02 (or most current version) and commonly or commercially known, sold, or represented as “neat” biodiesel or B100.
- (6) “B100 Biodiesel-Fueled” (compression-ignition engine) means a compression-ignition engine that is fueled by B100 biodiesel fuel.
- (7) “CARB Diesel Fuel” means any diesel fuel that meets the specifications defined in *13 CCR 2281 and 13 CCR 2282*.
- (8) “Compression Ignition (CI) Engine” means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle.
- (9) “Cryogenic Temperature Control System” means a heating and cooling system that uses a cryogen, such as carbon dioxide or liquid nitrogen that is routed through an evaporator coil that cools air blown over the coil. The cryogenic system uses a vapor motor to drive a fan and alternator, and a propane-fired heater superheats the carbon dioxide for heating and defrosting.
- (10) “Diesel Fuel” means any fuel that is commonly or commercially known, sold, or represented as diesel fuel No. 1-D or 2-D, pursuant to the specifications in *ASTM Standard Specification for Diesel Fuel Oils D975-98* (or most current version).
- (11) “Diesel-Fueled” means fueled by diesel fuel or CARB diesel fuel in whole or in part.

- (12) “Diesel Particulate Filter (DPF)” means an emission control technology that reduces PM emissions by trapping the particles in a flow filter substrate where it is oxidized or burned off, once the filter reaches a certain temperature.
- (13) “Diesel Particulate Matter” means the elemental carbon particles found in the exhaust of diesel-fueled CI engines which may agglomerate and adsorb other species to form structures of complex physical and chemical properties. Diesel-particulate matter is commonly divided into three main fractions: 1) the Solid Fraction (elemental carbon, ash), 2) Soluble Organic Fraction (organic material derived from lube oil and fuel), and 3) Insoluble Inorganic Fraction (metals, sulfates (SO₄), nitrates, and other inorganic particulate matter).
- (14) “Emergency” means a time when normal grid power service fails or when an affected facility is placed under involuntary “power shedding” mode.
- (15) “Executive Officer” means the Executive Officer of the California Air Resources Board or his or her delegate.
- (16) “Facility frequented by TRUs” means any facility where TRUs are loaded or unloaded with perishable goods. This includes, but is not limited to grocery distribution centers, food service distribution centers, cold storage warehouses, grocery stores, and intermodal facilities. Each business entity at a commercial development that leases space is a separate facility for the purposes of this regulation, provided the businesses are under separate ownership.
- (17) “Fleet” means more than two (2) TRUs.
- (18) “Fleet Operator” means any federal, state, county, city, or governmental department or agency, any special district such as water, air, sanitation, transit, and school districts, or private individual firm, association, franchise, contractor, user, or owner that owns or leases a fleet of TRUs.
- (19) “Generator Set” means a CI engine coupled to a generator used as a source of electricity.
- (20) “Hybrid Cryogenic Temperature Control System” means a temperature control system that uses a cryogenic temperature control system in conjunction with a diesel engine.
- (21) “Intermodal Facility” means a facility involved in the movement of goods in one and the same loading unit or vehicle which uses successively several modes of transport without handling of the goods themselves in changing modes. Such a facility is typically involved in loading and unloading shipping containers and trailer vans to and from railcars, trucks, and ocean-going ships.
- (22) “In Use” (CI engine) means not a “new” CI engine.

- (23) “Military tactical support equipment (TSE) means equipment that meets military specifications, owned by the U.S. Department of Defense and/or the U.S. military services, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.
- (24) “Model Year (MY)” means diesel-fueled engine manufacturer’s annual production period, which includes January 1st of a calendar year, or if the manufacturer has no annual production period, the calendar year.
- (25) “New” (CI engine) means any CI engine
- (A) That has been constructed of new parts that has never been subject to a retail sale or lease to an end user, or
 - (B) An engine that has been reconstructed after the effective date of this section, where the cost of a single reconstruction is greater than or equal to 50 percent of the purchase price of a new similarly sized engine (basic equipment only).
- (26) “Nitrogen Oxide (NOx)” means compounds of nitric oxide (NO), nitrogen dioxide (NO₂), and other oxides of nitrogen. Nitrogen oxides are typically created during combustion processes, and are major contributors to smog formation and acid deposition. NO₂ is a criteria air pollutant, and may result in numerous adverse health effects.
- (27) “Non-methane Hydrocarbons (NMHC)” means the sum of all hydrocarbon air pollutants except methane. NMHCs are precursors to ozone formation.
- (28) “Owner/Operator” means any person subject to the requirements of this section, including but not limited to:
- (A) An individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation including but not limited to, a government corporation;
 - (B) Any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law; or
 - (C) A project proponent and any of its contractors or subcontractors.
- (29) “Purchase or Lease” means that a purchase or lease contract has been signed by both parties for a TRU to be delivered within one year of the purchase or lease contract date, which is the date the contract is signed by both parties.

- (30) “Refrigerated Shipping Container TRU” means a shipping container equipped with a TRU. Shipping container TRUs use of an integral internal combustion engine to power the refrigeration/heating system.
- (31) “Transport Refrigeration Unit (TRU)” means refrigeration systems powered by integral internal combustion engines designed to control the environment of temperature sensitive products that are transported in semi-trailer vans, truck vans, reefer railcars, or shipping containers. TRUs may be capable of both cooling and heating.
- (32) “TRU Generator Set” means a generator set that is designed and used to provide electric power to electrically driven transport refrigeration units of any kind. This includes, but is not limited to generator sets that provide electricity to electrically powered trailer-mounted TRUs and shipping containers.
- (33) “Ultra-Low-Aromatic Synthetic Diesel Fuel” means fuel produced from natural gas by the Fischer-Tropsch gas-to-liquid chemical conversion process, or similar process that meets the following properties:

Property	ASTM	Value
Sulfur Content (ppmw)	D5453	<1
Aromatic Content (wt %)	D51876-99	1.5%
Polynuclear aromatic hydrocarbon (wt %)	-	0.5%
Cetane Number	D613	>74

- (34) “Vehicular Diesel Fuel” means any diesel fuel (A) which is not conspicuously identified as a fuel which may not lawfully be dispensed into motor vehicle fuel tanks in California; or (B) which the person selling, offering for sale, or supplying the diesel fuel knows will be dispensed into motor vehicle fuel tanks in California; or (C) which the person selling, offering for sale, or supplying the diesel fuel in the exercise of reasonable prudence should know will be dispensed into motor vehicle fuel tanks in California, and that is not the subject of a declaration under penalty of perjury by the purchaser, offeree, or recipient stating that s/he will not sell, offer for sale, or transfer the fuel for dispensing, or dispense the fuel, into motor vehicle fuel tanks in California.
- (35) “Verification Classification Level” means the classification assigned to a Diesel Emission Control Strategy by the Executive Officer (e.g. Level 1, Level 2, or Level 3) as defined in the *Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emission from Diesel Engines (13 CCR Sections 2700 – 2710)*.
- (36) “Verified Diesel Emission Control Strategy” (VDECS) means an emission control strategy designed primarily for the reduction of diesel particulate matter emissions that has been verified per the *Verification Procedure, Warranty and*

In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (13 CCR Sections 2700 – 2710). Examples of diesel retrofit systems that may be verified include, but are not limited to, diesel particulate filters, diesel oxidation catalysts, fuel additives (e.g. fuel-borne catalysts), alternative diesel fuels, and combinations of the above

(e) Requirements.

(1) Special Emission Standards for New TRU and TRU Generator Set CI Engines.

[Concept: The concept here is to establish progressively more stringent manufacturer standards for TRUs. These standards would be more stringent than the current Tier 2 and future Off-road Standards for engines less than 50 horsepower. ARB staff has not determined the technical feasibility or cost effectiveness of the proposed standards. Thus, the standards and the timing of their implementation are very preliminary and open for comment. Implementation of these standards may require an adjustment to the weighting factors used for current off-road certification test cycle.]

(A) Except as provided in subsection (c), all new diesel-fueled CI TRU and TRU generator set engines sold for use in California must meet the following emission performance standards for particulate matter in grams per brake horsepower-hour (g/bhp-hr), regardless of horsepower rating, by the compliance dates shown:

PM (g/bhp-hr)	Compliance Date
0.30	January 1, 2005
0.10	January 1, 2010
0.01	January 1, 2015

(B) These PM emission standards supercede the otherwise applicable Off-road Compression Ignition Engine Standards set forth the *13 CCR Section 2423* and shall be achieved without exceeding the emission standards set for other regulated pollutants (e.g. NMHC + NOx, CO).

(2) Requirements for TRU and TRU Generator Set Fleet Owner/Operators and Lessors for In-Use TRUs.

[Concept: The concept here is to steadily reduce emissions from older in-use TRUs and at the same time provide the TRU owners the flexibility to choose from a wide variety of compliance options. The compliance options would include retrofit existing engines, replace with new engines, replace with alternative fueled engines, use alternative diesel fuels, and use non-diesel refrigeration technologies.]

(A) Applicable owner/operators and lessors of in-use diesel-fueled TRU engines and TRU generator sets shall retrofit all TRUs that operate in California by the compliance dates shown below with a Verified Diesel Emission Control Strategy (VDECS) that meets the highest verification classification level that has been verified for the affected model year as of the date of the retrofit work order. In lieu of retrofitting with a verified control technology, one of the alternative technologies listed in subsection (e)(2)(B) may be employed or the in-use engine may be replaced with a certified new engine.

(i) As of the compliance date shown below, TRU and TRU generator set owner-operators shall have retrofitted at least the percentage of the pre-1996 model year (MY) engines owned or operated on the compliance date:

Percentage of pre-1996 MY Fleet Retrofitted	Compliance Date
33%	December 31, 2005
67%	December 31, 2006
100%	December 31, 2007

(ii) As of the compliance date shown below, owner-operators shall have retrofitted at least the portion of the 1996 through 2005 model year engines owned or operated on the compliance date:

Percentage of 1996 to 2004 MY Fleet Retrofitted	Compliance Date
33%	December 31, 2008
67%	December 31, 2009
100%	December 31, 2010

(iii) As of the compliance date shown below, owner-operators shall have retrofitted all 2005 and beyond model year engines:

Model Year	Compliance Date
2005	December 31, 2010
2006	December 31, 2011
2007	December 31, 2012
2008	December 31, 2013
2009	December 31, 2014
2010	December 31, 2015
2011	December 31, 2016
2012	December 31, 2017
2013	December 31, 2018
2014	December 31, 2019

(B) Alternative technologies may be used in lieu of retrofitting with a VDECS to comply with the above in-use requirements on a retrofit, repower, or replacement basis. The compliance dates listed in subsection (e)(2)(A)

would still apply with the use of these alternative technologies. Examples and limitations follow:

- (i) Equipped with electric standby. This option is allowed, provided the facilities frequented by the TRU offer compatible electric plug-ins and the is not operated under diesel engine power while at affected facilities, except during an emergency.
- (ii) Equipped with cryogenic temperature control systems and hybrid cryogenic temperature control systems. This option is allowed, provided the TRU is not operated under diesel engine power while at affected facilities, except during an emergency.
- (iii) TRUs and TRU generator sets equipped with alternative-fueled TRU engines.
- (iv) TRUs and TRU generator set engines fueled exclusively with an alternative diesel-fuel that has been verified as a VDECS, provided it is used in accordance with the requirements of subsection (e)(4)(B). Exclusive use of an alternative diesel fuel qualifies the TRU for exemption from the requirement to meet the highest verification classification level that has been verified for the model year.
- (v) TRUs powered by fuel cells. [Appropriate controls may be needed with diesel reformer use.]
- (vi) Any other system approved by the Executive Officer to not emit diesel PM while at an affected facility.

(C) Replacements Due to Failures

- (i) If a VDECS fails within its warranty period, the owner may replace it with the same VDECS.
- (ii) If a VDECS fails outside its warranty period and a higher verification classification level VDECS is available, then the owner/operator shall upgrade to the highest level VDECS available.

(D) Labeling Requirements

[Concepts: We're trying to provide a quick and easy means of identifying equipment that is in compliance and assisting the facility in monitoring for compliance with requirements of subsection (e)(3). The label could include an easy visual indication and a bar code or similar technology to help automate monitoring, recordkeeping, and reporting.]

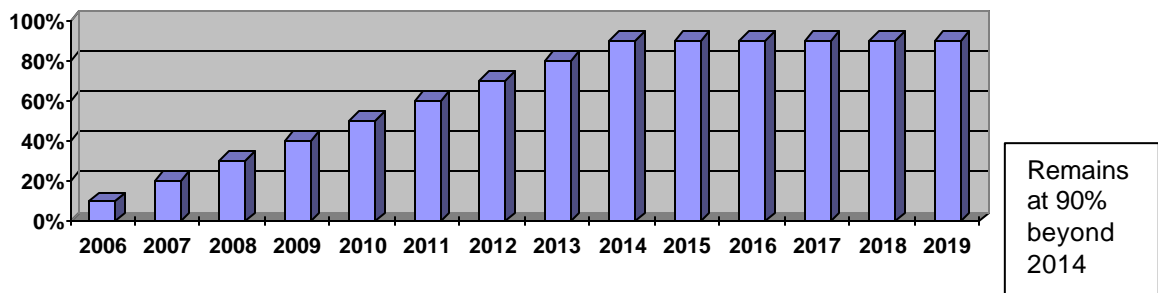
- (i) Beginning on January 1, 2006, all TRUs and TRU generator sets that qualify for the alternative technology compliance criteria listed in subsection (e)(2)(B) or the facility-qualifying criteria listed in subsection (e)(3)(B) shall have a label permanently affixed in clear view to identify the compliance criteria chosen. **[**Detailed label layout, location, and terminology will be added to this later.**]**

(3) Requirements for Facilities.

[Concept: The concept here is to have facilities progressively install the infrastructure necessary to support low-emission TRUs and TRU generator sets and non-diesel refrigeration technologies. A certain fraction of higher emission TRUs would be allowed to address some out-of-state TRUs.]

- (A) Owner-operators of applicable facilities shall increase the number of active TRUs and TRU generator sets operating under low emission technologies at an affected facility by 10% per year, starting on January 1, 2006, with an end-value of at least 90% from January 1, 2014 and beyond. This is depicted by the graph shown below.

Phase-In of Low Emissions TRUs/TRU Generator Sets at Facility



- (B) Owner/operators of affected facilities may achieve compliance by adopting and enforcing facility policies to increase the number of active TRUs and TRU generator sets operating under low emission technologies while at an affected facility. Low emission technologies that meet the following criteria and limitations may be counted toward compliance.
 - (i) TRUs and TRU generator sets equipped with “clean” diesel engines that are certified to meet 0.01 g/bhp-hr PM emission standard.
 - (ii) TRUs and TRU generator sets equipped with “clean” diesel engines that meet Level 3 Verification Classification Level ($\geq 85\%$ control efficiency or ≤ 0.01 g/bhp-hr).
 - (iii) TRUs equipped with electric standby, provided the TRU only runs on electric power while at the facility, except during an emergency.

- (iv) TRUs equipped with cryogenic temperature control systems or hybrid cryogenic temperature control systems, provided the TRU does not run on diesel engine power while at the facility, except during an emergency.
 - (v) TRUs and TRU generator sets equipped with alternative-fueled engines.
 - (vi) TRUs and TRU generator sets fueled exclusively with an alternative diesel-fuel that has been verified as a VDECS, provided it is used in accordance with the requirements of subsection (e)(4)(B).
 - (vii) TRUs powered by fuel cells. [Appropriate controls w/ diesel reformer.]
 - (viii) TRUs and TRU generator sets equipped with advanced technology that prevents the TRU or TRU generator set from being operated under diesel engine power while at an affected facility, except during an emergency.
- (C) Owner/operators of affected facilities and owner/operators of affected TRUs and TRU generator sets are prohibited from taking action to divert affected TRUs to alternate staging areas in order to circumvent the requirements of this section.
- (4) Fuel Requirements:

[The concept here is to ensure that all diesel TRUs and TRU gen sets fueling in California would use CARB diesel. Other provisions in this section are designed to prevent miss-fueling of TRUs using alternative diesel fueled engines.]

- (A) Beginning on January 1, 2004, TRUs and TRU generator sets shall use fuel that is lawful for use or sale in California as a vehicular diesel fuel.
- (B) Fleet operators opting to use alternative diesel fuels in CI TRU and TRU generator set engines to comply with this section shall be subject to the following requirements:
 - (i) Subject fleet operators shall comply with recordkeeping and reporting requirements in accordance with subsection (f)(1)(C) of this regulation.
 - (ii) Subject fleet operators shall be prohibited from operating subject TRUs or TRU generator sets in California using diesel fuel or CARB diesel fuel.
 - (iii) In the event that the fleet operator decides to revert to using CARB diesel fuel, the owner-operator shall comply with the requirements of

subsection (e)(2) within six months of discontinuation of alternative diesel fuel use. Within 10 days of discontinuation, the owner/operator shall notify the Executive Officer in writing of this change in fuel use and shall include an update to the compliance plan required by subsection (f)(1).

- (C) Fleet operators that retrofit TRUs or TRU generator sets with a VDECS that requires certain fuel properties to be met in order to achieve the required PM reduction or PM emissions shall only fuel the subject TRU or TRU generator set with fuel that meets these specifications when operating in the state of California. In addition, fleet operators that choose a VDECS that requires certain fuel properties to be met in order to prevent damage to the VDEC or an increase in toxic air contaminants, other harmful compounds, or in the nature of the emitted PM shall only fuel the subject TRU or TRU generator set with fuel that meets these specifications.
- (D) Beginning on January 1, 2006, all affected TRU and TRU generator set fuel tanks shall have a permanently affixed label in plain view near the fill spout that clearly identifies the proper fuel that is required to be used to be in compliance under the chosen pathway when operating in the State of California.

(f) Monitoring, Recordkeeping, and Reporting Requirements

[The concept here is to come up with a cost-effective way to show compliance with the requirements. We understand that many carriers and facilities track the location and temperature of their goods with GPS and various types of telemetry. We believe there may be many technologies available or on the horizon that could be easily adapted to make monitoring, recordkeeping and reporting less burdensome.]

- (1) TRU and TRU generator set fleet owner/operator and lessor recordkeeping and reporting.

(A) Initial Reporting

- (i) All fleet operators subject to this regulation shall submit an initial report to ARB [or designated agency] by June 30, 2004.
- (ii) The initial report shall include the following information:
 - a. Contact information
 - b. TRU and TRU generator set inventory: Each TRU and TRU generator set make, model, and serial number, engine model, model year, and serial number, other identification numbers (if applicable), and the

operational status. *[Trailer VIN# or appropriate alternative identifier may also be appropriate.]*

- c. Compliance plan – when and how each TRU and TRU generator set will be brought into compliance by the applicable compliance date.

(B) Annual Report

- (i) All fleet operators subject to this regulation shall submit an annual report to ARB [or designated agency] by January 31, 2005.
- (ii) Annual reports shall continue to be submitted in subsequent years. [This requirement may sunset after all TRUs and TRU gen sets in CA are Level 3 - ~2025?]
- (iii) The annual report shall include the following information:
 - a. Contact information.
 - b. TRU and TRU generator set inventory: Each TRU and TRU generator set make, model, and serial number, engine model, model year, and serial number, other identification numbers (if applicable), and operational status. *[Trailer VIN# may also be appropriate.]*
 - c. Implementation steps taken to achieve compliance and certification of compliance.
 - d. Any amendments to the compliance plan necessary.

(C) Alternative Diesel Fuel Use and Fuel Additive Recordkeeping and Reporting.

- (i) Fleet operators that choose a compliance pathway that involves the use of alternative-diesel fuel (e.g. B100 biodiesel fuel or ultra-low-aromatic synthetic diesel fuel) and/or fuel additive (e.g. fuel-borne catalyst) shall maintain records that document exclusive use of the chosen fuel for each affected CI engine and hours of operation. Appropriate records would be copies of receipts or invoices of appropriate fuel and/or additive and daily operating hour logs.
- (ii) Records shall be kept available for a minimum of two years and shall be made available to ARB inspectors [or designated agency] upon request.
- (iii) An annual report shall be submitted to ARB [or designated agency] by January 31st of each year reporting the total hours of operation in

California and total alternative diesel fuel and/or fuel additive use for the prior calendar year.

(2) Facility monitoring, recordkeeping, and reporting.

(A) Affected facilities shall monitor and maintain a continuous record of the following:

- (i) The date and time that refrigerated truck vans, trailers, containers, and rail cars enter and leave the facility
- (ii) The total number of refrigerated truck vans, trailers, containers, and rail cars at the facility at any time.
- (iii) The number of TRUs meeting each of the facility compliance criteria listed in subsection (e)(3)(B).

(B) Records shall be made available for inspection to ARB staff [or designated agency] upon request.

(C) Initial Report

- (i) All facilities subject to this section shall submit an initial report to ARB [or designated agency] by June 30, 2005.
- (ii) The initial report shall include the following information:
 - a. Contact information for the facility's responsible official.
 - b. Compliance plan – a written plan shall be submitted showing how the facility plans to come into compliance by the applicable compliance dates. Copies of adopted facility policies that the facility will enforce to assure compliance shall be included.
 - c. Facility responsible official certification – the top official at the facility shall certify to the accuracy of the initial report and to the company's commitment to the compliance plan.

(D) Annual Report

- (i) All facilities subject to this regulation shall submit an annual report to ARB [or designated agency] by January 31st of each year.
- (ii) Annual reports shall continue to be submitted in subsequent years. [This requirement may sunset at some point]

- (iii) The annual report shall include the following information:
 - a. Contact information for the responsible official.
 - b. Certification by responsible official of implementation steps taken to achieve compliance.
 - c. Any amendments to the compliance plan.

(3) Alternative Compliance Plans

[Concepts: We're trying to provide some flexibility in compliance dates, in the event of unforeseen technological or economic feasibility issues.]

(A) In the event that a fleet or facility cannot comply with the requirements of this section by the applicable compliance dates, they may choose to submit an alternative compliance plan (ACP) for consideration by the Executive Officer. The ACP would request an extension in the compliance date, which is the only relief allowed. Relief from the basic requirements is not allowed.

(B) Qualifying criteria:

- (i) ACPs must be submitted at least 60 days prior to the compliance date that cannot be met.
- (ii) The circumstances leading to noncompliance must be beyond the control of the fleet or facility. Examples follow:
 - a. Financial hardship.
 - b. Supplier unable to deliver per agreed-to deadlines within the compliance schedule.

(C) ACPs must include the following as a minimum:

- (i) Request for extension in compliance dates.
- (ii) Discussion of the rationale for requesting a compliance schedule extension.
- (iii) Documentation to support the rationale for the request.
 - a. Documentation of financial hardship shall include, but is not limited to, an analysis of the cost of compliance, the sources of available funds, and the shortfall between the funds available and the cost of compliance.

- b. Documentation of due diligence in procuring necessary components and completing installation within the compliance deadline.
- (iv) Compliance plan for meeting the proposed extended compliance dates.
- (D) The Executive Officer would approve or disapprove the ACP on a case-by-case basis within 30 days of ACP submission.
- (E) The applicant shall be held accountable for noncompliance until an ACP is approved by the Executive Officer.

Staff are interested in comments relevant to all of the concepts proposed herein. This is NOT final regulatory language