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Via Email

June 23, 2026

David Contreras, Director
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Department
Town of Apple Valley
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Richard Hirsch
Contract Senior Planner
Town of Apple Valley
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Re: Comment on the Recirculated Subsequent Mitigated Negative Declaration, Green Trucking Solutions Cold Storage Development

Dear Mr. Contreras and Mr. Hirsch:

This comment is submitted on behalf of Supporters Alliance For Environmental Responsibility ("SAFER") regarding the Recirculated Subsequent Initial Study and Mitigated Negative Declaration ("RMND") prepared for the Green Trucking Solutions Cold Storage Development (SCH 2023080221), which proposes the development of a 385,004 square-foot cold storage warehouse building, located on 8.7 acres at the northwest corner of Navajo Road and Lafayette Street in the Town of Apple Valley ("Project").

SAFER is concerned that the RMND is improper under the California Environmental Quality Act because there is substantial evidence that the Project will have a significant and unmitigated air quality impact. Accordingly, SAFER requests that an environmental impact report ("EIR") be prepared for the Project. An EIR will ensure that potentially significant impacts of this Project are fully disclosed, analyzed, and mitigated.

SAFER submits herewith comments from air quality expert Ray Kapahi. Mr. Kapahi's comments and resume are attached hereto as Exhibit A.

I. PROJECT DESCRIPTION

The Project proposes the construction and operation of two industrial buildings that are physically connected and function as a single cold-storage and distribution facility. The buildings would consist of a combination of refrigerated warehouse space, dry storage, loading and staging areas, and associated office and employee facilities. The structure includes multiple loading docks oriented along the north. (RMND, p. 7.)

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The RMND tiers from the City's 2009 2009 General Plan Program EIR ("GP EIR"). A Subsequent Initial Study/Mitigated Negative Declaration ("SIS/MND") was originally circulated for public review in 2023, but was never adopted. Since 2023, the Project has been revised and is now approximately 30,000 square feet smaller than what was proposed in 2023.

II. LEGAL STANDARD

While claiming to be a subsequent MND, the RMND admits that it is actually tiering from the 2009 GP EIR. "[B]ecause the Final EIR serves at a program level, further environmental documentation is required for specific plans, subdivisions, land use plans, and other development applications processed by the Town during General Plan implementation. This documentation may consist of Negative Declarations, Mitigated Negative Declarations, or Environmental Impact Reports, depending on the scope of future projects." (RMND, p. 4.) The RMND explains:

Based on the nature and scope of the proposed Project and the evaluation included in the Initial Study Environmental Checklist (contained in Section 4.0 of this document), the Town has concluded that a Tiered Mitigated Negative Declaration is the proper level of environmental documentation for the proposed Project.

(*Id.*) As a result, an EIR is required if there is substantial evidence of a potentially significant environmental impact.

While a negative declaration may be adopted for the second tier of environmental review, a later EIR is required when an initial study or other analysis finds that the proposed project may cause significant effects on the environment that were not examined in the first-tier EIR. A negative declaration may be adopted as the later-tier document only when there is no substantial evidence in the record that the project may have a significant environmental effect. (14 CCR § 15152(f); 14 CCR § 15070.)

The validity of a tiered negative declaration is reviewed under the same standard that applies to an agency's initial decision to adopt a negative declaration for a project. (*See Center for Sierra Nev. Conserv. v County of El Dorado* (2012) 202 Cal.4th 1156, 1173.) Under that standard, a negative declaration is improper and an EIR must be prepared if there is any substantial evidence in the record of the agency's proceedings that would support a fair argument that the project might have a significant effect on the environment. (14 CCR § 15070.)

Moreover, even under the subsequent review standards of Guidelines section 15162, a supplemental or subsequent EIR is required. The RMND acknowledges that "[t]here have been changes in circumstances (both physical and procedural) since the 2009 EIR GP EIR was certified." (RMND, p. 4.) The RMND provides that "these include, but are not limited

to” the development of and new approvals in the NAVISP; new ways to measure and mitigate air quality, GHG emissions, and energy use; listing of additional species under the California Endangered Species Act; and the additional of energy, VMT, Tribal Cultural resources, and Wildlife as topics requiring review under CEQA. (*Id.*) As a result of these changed circumstances, and in light of substantial evidence demonstrating significant and unmitigated impacts, a supplemental EIR is required.

III. An EIR is Required Because there is Substantial Evidence of a Significant Air Quality Impact and Human Health Impact.

Mr. Kapahi found that the RMND underestimated annual miles travelled by haul and delivery truck and that the annual emissions of diesel particulate matter would result in a cancer risk score 100 times greater than the threshold of significance. As a result, an EIR must be prepared to analyze and mitigate these significant air quality impacts. (*See Exhibit A*, pp. 1-5.) In contrast, the City’s conclusions regarding air quality impacts are not supported by substantial evidence.

A. The City’s Conclusions Regarding Air Quality and Human Health Impacts Are Not Supported by Substantial Evidence.

The RMND’s conclusion that operational air quality impacts would be less than significant is not supported by substantial evidence because the emissions analysis relies on assumptions that significantly underestimate truck activity and vehicle miles traveled (“VMT”). (*See Exhibit A*, p. 2-5.) As explained by air quality expert Ray Kapahi, the Project’s operational emissions were modeled using CalEEMod based on approximately 290,904 annual vehicle trips and 1,247,751 annual vehicle miles traveled, which equates to an average trip length of only 14.6 miles per trip. (*Exhibit A*, p. 2.) However, according to Mr. Kapahi, for a regional cold-storage and distribution facility of this scale, such an assumption is not realistic. (*Id.*)

The Project is designed to receive and distribute refrigerated goods through haul and delivery trucks serving regional markets throughout Southern California. Mr. Kapahi explains that it is reasonable to expect that many truck trips will originate from or travel to distribution centers and logistics hubs located throughout San Bernardino and Los Angeles Counties, resulting in average trip lengths far greater than those assumed in the RMND. (*Exhibit A*, p. 2.) Based on the nature of the facility and the regional freight network it will serve, typical truck trip lengths are more likely to range between “50 to and 75 miles one-way.” (*Id.*) Because operational emissions are directly correlated with VMT, the use of unrealistically short trip lengths incorrectly underestimates emissions from heavy-duty truck operations. (*Id.*) Specifically, Mr. Kapahi concludes:

Since annual and daily emissions are directly related to annual and daily VMT, the operational emissions are likely to be 50% to 100% higher than what is reported in

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the RIS/MND. This oversight negates the conclusions that project impacts would be less than significant.

(Exhibit A, p. 2.)

In addition, Mr. Kapahi found that the RMND's emissions analysis is further undermined by the vehicle fleet mix assumptions used in the CalEEMod model. (*See* Exhibit A, pp. 2-3.) The RMND assumes that approximately 56 percent of vehicles entering and leaving the facility will be passenger vehicles, while only a small percentage of trips are attributed to heavy-duty diesel trucks (i.e., 16.6 percent). (*Id.*, p. 2.) As Mr. Kapahi notes, this assumption is inconsistent with the Project's intended use as a cold-storage distribution facility. (*Id.*, pp. 2-3.) Here, the primary function of the Project is the loading, unloading, storage, and transport of refrigerated goods. Consequently, a substantially greater proportion of vehicle activity can be expected to consist of diesel-powered haul and delivery trucks. (*Id.*) Therefore, "[u]se of a more realistic fleet mix would substantially increase the [Project's] daily and annual emissions, such of nitrogen oxides ("NOx"), diesel particulate matter, and other toxic air contaminants. (*Id.*, p. 3.)

The RMND further fails to provide sufficient information to verify emissions from transport refrigeration units ("TRUs"). (*See* Exhibit A, p. 3.) Although Table C of Appendix A of the RS MND reports TRU emissions, according to Mr. Kapahi, it does not disclose the emission factors or calculations used to derive those estimates. (*Id.*, p. 3.) Based on the Project's own assumptions regarding truck activity and four-hour TRU operating times, Mr. Kapahi calculated that TRUs would operate approximately 505,940 hours annually, resulting in substantially greater diesel particulate matter ("DPM") emissions than reported in the RMND. (*Id.*) Because the operational emissions analysis relies on unsupported assumptions regarding trip lengths, fleet composition, and TRU activity, the City's conclusions regarding air quality impacts are not supported by substantial evidence. (*Id.*) As discussed below, Mr. Kapahi's analysis provides substantial evidence that the Project's operational emissions will result in significant and unavoidable diesel particulate matter emissions. (*See id.*, pp. 3-5.)

Lastly, the RMND is also deficient because it relies solely on comparisons to Mojave Desert Air Quality Management District emissions thresholds and does not evaluate whether Project emissions could contribute to violations of state or federal ambient air quality standards ("AAQS"). (*See* Exhibit A, pp. 3-4.) As Mr. Kapahi explains, determining whether emissions would expose sensitive receptors to significant pollutant concentrations requires air dispersion modeling, yet no such analysis was performed. (*Id.*, p. 4.) As Mr. Kapahi notes:

No analysis is presented to demonstrate that the emission rates would not violate the AAQS yet the RIS/MND concluded that project emissions would not "Expose sensitive receptors to substantial pollutant concentration.

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(*Id.*) In the absence of any analysis demonstrating compliance with health-based AAQS, the RMND lacks substantial evidence to support its conclusion that air quality and human health impacts would be less than significant. (*Id.*; *see also id.*, p. 5.)

B. The Project will result in significant and unavoidable annual diesel particulate matter emissions from haul and delivery truck trips, requiring an EIR.

According to Mr. Kapahi, the health risk assessment underestimates DPM emissions associated with diesel truck operations and TRUs, which are a major source of emissions at cold-storage facilities. (*Id.*, pp. 4-5.) Based on the Project's likely truck activity and TRU operating assumptions, Mr. Kapahi calculated that TRUs would generate approximately 2.61 tons of DPM emissions annually, which is substantially higher than the amount reported in the RMND. (*Id.*)

Mr. Kapahi prepared a health risk analysis and determined that Project's DPM emissions would result in a cancer risk exceeding 10,000 at the nearest receptor, approximately 61 meters from the Project site. (Exhibit A, pp. 4-5.) He further found that cancer risks would remain above the significance threshold for an area extending approximately 1.5 miles beyond the Project property lines. (*Id.*, p. 4.) These findings directly contradict the RMND's conclusion that health risks would remain below the applicable significance threshold and constitute substantial evidence supporting a fair argument of significant air quality and human health impacts. (*Id.*, p. 5.)

Because substantial evidence demonstrates that annual DPM emissions and associated cancer risks have been substantially underestimated and Mr. Kapahi found that the Project's DPM emissions would result in significant and unavoidable air quality and human health impacts, an EIR must be prepared to analyze and mitigate these impacts. (Exhibit A, p. 5.)

IV. CONCLUSION

For the foregoing reasons, SAFER believes the RMND is deficient and inadequate. SAFER urges the City to make the above changes, and prepare an EIR to the public for review. Thank you for your attention to these comments

Sincerely,



Victoria Yundt
Lozeau Drury LLP

EXHIBIT A



TECHNICAL MEMORANDUM

To: Victoria Yundt
Lozeau Drury, LLP

Date: April 8, 2026

From: Ray Kapahi *RK*
Tel: 916-806-8333
E-Mail: ray.kapahi@gmail.com

Subject: Review of Impacts to Air Quality and Public Health
Recirculated Initial Study/Mitigated Negative Declaration (RIS/MND)
Green Trucking Solutions Cold Storage Project, Apple Valley

Introduction

I have reviewed the RIS/MND for the proposed 354,000 square feet cold storage warehouse to be located in Apple Valley (San Bernardino County), California. The project would occupy 18.7 acres at the northwest corner of Navajo Road and Lafayette Street.

It is my understanding that the project would consist of a combination of refrigerated dry storage, loading and staging areas and office and employee facilities. Refrigerated haul and delivery trucks would be used to accept and deliver frozen goods.

The focus of this review is on assumptions, calculational methodology and completeness of the analysis that appears in the RIS/MND.

General Comments

The general approach used in the RIS/MND is to quantify emissions during the construction and operational phases and then compare these emissions against the thresholds of significance established by the Mojave Desert Air Quality Management District (MDAQMD).

On the basis of this comparison, the RIS/MND concluded that impacts to air quality and public health would be less than significant.

The thresholds established under the MDAQMD CEQA Guidelines¹, however, are not the only applicable thresholds. Under the federal Clean Air Act², any project emissions that lead to an exceedance of the ambient air quality standards are considered a violation and therefore, are considered significant impact.

The RIS/MND failed to consider this option.

Comments Related to Operational Emissions

Truck Emissions Significantly Underestimated

Project emissions are based on the number of truck trips and annual vehicle miles travelled (VMT). The CalEEMOD emissions model is used to calculate the annual and daily emissions of various criteria air pollutants³. Copies of the CalEEMOD emissions reports appear in Appendix A to the RIS/MND. The project would generate 290,904 trips and 1,247,751 vehicle miles annually. This equates to an average trip length of only 14.6 miles per trip.

Given the size of the project, it is reasonable to expect that many truck trips will originate in San Bernardino and Los Angeles Counties. As a result, the typical trip length, especially for haul trucks, is likely to be 50 to 75 miles one-way.

Since annual and daily emissions are directly related to annual and daily VMT, the operational emissions are likely to be 50% to 100% higher than what is reported in the RIS/MND. This oversight negates the conclusions that project impacts would be less than significant.

Inappropriate Vehicle Fleet Mix Used

The project assumed that the majority (56%) of the vehicles entering or leaving the facility would be light duty cars/pick-up trucks. Only 48% of the vehicles would be trucks and only 16.6% of the trucks would be heavy-duty diesel trucks.

This vehicle mix appears to be inappropriate given that the proposed facility is not a retail facility but a distribution facility where the majority of the operations consist of loading and unloading of trucks. Therefore, one would expect the majority of the vehicles to be haul and delivery trucks

¹ MDAQMD (2020): MDAQMD CEQA Guidelines, Table 6. February 2020.

² CAA (1970): 42 USC Section 7401 et seq. Available at: <https://www.epa.gov/laws-regulations/summary-clean-air-act>

³ RIS/MND (2026): Section 4.3. Air Quality Impacts Table 4.3-3 January 6, 2026.

and not passenger cars. Use of a more realistic fleet mix would substantially increase the daily and annual emissions.

Transport Refrigeration Units (TRUs) Emissions Unverifiable

Emission from TRUs appear in Table C of Appendix A of the RIS/MND, however, no calculations are provided to verify the daily and annual emissions. For example, daily NOx emissions from Truck/Trailer TRUs are reported to equal 13 pounds per day of NOx. It is not clear what emission factors and/or age of the TRUs was assumed in arriving at this emission rate.

Given that TRUs for this project would not use electric power available at the warehouses, but run on their built-in diesel engines for a minimum of 4 hours per truck, emissions are likely to be significant.

Based on 290,904 annual trips of which 43.5% are trucks, this equates to:

*4 hrs TRU operation per truck x 290,904 trips/yr x 43.48% = 505,940 annual operating hours
This equates to over 2 tons of DPM emissions per year. The amount reported in Table C is "less than 1 tons/year".*

Public health risks associated with this level of emissions would far exceeds "below 10" cancers as reported in the RIS/MND. This is discussed later in this Technical Memorandum.

Comments Related to Significance of Air Quality Impacts

The significance of the project's air quality impacts is based solely on a comparison of daily emissions against thresholds established by the Mojave Desert Air Quality Management District (MDAQMD)⁴. The results of this comparison are then used to demonstrate compliance with CEQA Guidelines Appendix G.

The MDAQMD CEQA thresholds are not the only thresholds to determine the significance of air quality impacts. Both federal and state ambient air quality standards (AAQS) set limits on the concentration of criteria air pollutants in order to protect public health and welfare. These standards, which appear in Section 109 of the federal Clean Air Act⁵ define acceptable limits over a specific time period. These standards were explicitly designed to protect public health from known and anticipated adverse effects. See Table below listing the AAQS.

⁴ MDAQMD (2020): MDAQMD CEQA Guidelines, Table 6. February 2020.

⁵ Clean Air Act Section 109, 42 USC Section 7409.

Ambient Air Quality Standards						
Pollutant	Averaging Time	California Standards ¹		National Standards ²		
		Concentration ³	Method ⁴	Primary ^{3,5}	Secondary ^{3,6}	Method ⁷
Ozone (O ₃) ⁸	1 Hour	0.09 ppm (180 µg/m ³)	Ultraviolet Photometry	—	Same as Primary Standard	Ultraviolet Photometry
	8 Hour	0.070 ppm (137 µg/m ³)		0.070 ppm (137 µg/m ³)		
Respirable Particulate Matter (PM ₁₀) ⁹	24 Hour	50 µg/m ³	Gravimetric or Beta Attenuation	150 µg/m ³	Same as Primary Standard	Inertial Separation and Gravimetric Analysis
	Annual Arithmetic Mean	20 µg/m ³		—		
Fine Particulate Matter (PM _{2.5}) ⁹	24 Hour	—	—	35 µg/m ³	Same as Primary Standard	Inertial Separation and Gravimetric Analysis
	Annual Arithmetic Mean	12 µg/m ³	Gravimetric or Beta Attenuation	9.0 µg/m ³	15.0 µg/m ³	
Carbon Monoxide (CO)	1 Hour	20 ppm (23 mg/m ³)	Non-Dispersive Infrared Photometry (NDIR)	35 ppm (40 mg/m ³)	—	Non-Dispersive Infrared Photometry (NDIR)
	8 Hour	9.0 ppm (10 mg/m ³)		9 ppm (10 mg/m ³)	—	
	8 Hour (Lake Tahoe)	6 ppm (7 mg/m ³)		—	—	
Nitrogen Dioxide (NO ₂) ¹⁰	1 Hour	0.18 ppm (339 µg/m ³)	Gas Phase Chemiluminescence	100 ppb (188 µg/m ³)	—	Gas Phase Chemiluminescence
	Annual Arithmetic Mean	0.030 ppm (57 µg/m ³)		53 ppb (100 µg/m ³)	Same as Primary Standard	

Would the construction or operational emissions summarized in Tables 4.3-2 and Tables 4.3-3 violate the AAQS?

No analysis is presented to demonstrate that the emission rates would not violate the AAQS yet the RIS/MND concluded that project emissions would not “Expose sensitive receptors to substantial pollutant concentration⁶”.

In order to translate project emissions (e.g., in pounds per hour) into pollutant concentration (e.g., parts per million), one needs to employ an air dispersion model. No such analysis was completed.

Comments Related to Impacts to Public Health

A screening level risk assessment was presented in Section 4.3 of the RIS/MND. The risk assessment concluded that health risks to nearby homes would be less than significant. “Health Risks” were defined as a cancer and non-cancer risk score. A cancer risk score below 10 indicates negligible health to the community.

Our analysis indicated the cancer risk score to be well over 10,000 at the nearest receptor and the cancer risk remains above 10 for an area extending 1.5 miles beyond the project property lines.

⁶ RIS/MND (2026): Section 4.3 (c)

The primary source of cancer risk is the emissions of diesel particulate matter from TRU units. According to Appendix A of the RIS/MND, each diesel TRU would operate for 4 hours. Previously, it was shown that the TRUs would operate 505,940 hours per year. This equates to an annual emission rate of 2.61 tons of DPM. See attached Table.

Cancer risk associated with this level of emissions exceeds 10,000 at the nearest receptor assumed to be 61 meters away. See attached screening level risk score calculation along with an excerpt of regulations that apply to TRU emissions.

Residents living near the project would be exposed to this level of cancer risk for the life of the project.

Conclusions

1. Truck emissions during the operational phase were underestimated primarily because of a short trip length. This resulted in an underestimate of annual miles travelled by haul and delivery trucks.
2. Annual emissions of DPM would result in a screen level cancer risk score 100 times greater than the threshold of significance. The impacted area would extend 1.5 miles beyond the project site. These health risks would be significant and unavoidable.

Apple Valley Cold Storage Project.xlsx

Sheet: Calculation of Annual DPM Emiss

Annual Trips	290,904 trips/yr	Ref: CalEEMOD Report 5/23/2025. Page 59
Percent Trucks	43.48%	Ref: Appendix D "Fuel Usage Worksheets"
Total Annual Trucks	126,485	
TRU Use per Trip	4 hrs/trip	
Annual TRU Hours	505,940 hours/yr	
Engine HP	34	
Load Factor	0.46	
Emission Factor	0.3 grams/hp-hr	Ref: ARB ATCM Regulations 13 CCR 2477
	Avaiulable at:	https://govt.westlaw.com/calregs/Document/I95479DD0181211EDB2198818E412AA21?viewType=FullText&transitionType=StatuteNavigator&contextData=%28sc.Default%29
Emissions	2,373,872 grams/yr 5,229 lbs/yr 2.61 tons/yr	

Prioritization Calculator

File: Apple Valley Risk Prioritization.xls
Sheet: PRIOR

FINAL REGULATION ORDER

California Code of Regulations, Title 13, Division 3, Chapter 9, Article 8

Section 2477. Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate.

2477.1 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 uses a phased approach to reduce the diesel PM emissions from in-use transport refrigeration units (TRUs) and TRU generator (gen) set equipment used to power electrically driven refrigerated shipping containers and trailers that are operated in California.

NOTE: Authority cited: sections 39600, 39601, 39618, 39658, 39659, 39666, 39667, 43013, 43018, California Health and Safety Code. Reference: sections 39618, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.2, 42410, 40717.9, 43013, and 43018, California Health and Safety Code.

2477.2 Applicability.

- (a) Owners and operators: Except as provided in section 2477.3, section 2477.5 of this regulation applies to owners and operators of diesel-fueled TRUs and TRU gen sets (see definition of operator and owner in section 2477.4) that operate in the State of California, regardless of where the vehicle is based. This specifically includes California-based and non-California-based TRUs and TRU gen sets that are installed on trucks, trailers, shipping containers, and railcars.
- (b) Terminal operators: Section 2477.6 of this regulation applies to operators of terminals located in California where TRU-equipped trucks, trailers, or shipping containers, or TRU gen sets are regularly garaged, maintained, operated, or dispatched from, including a dispatch office, cross-doc facility, maintenance shop, business, or private residence.
- (c) Drivers: Section 2477.7 applies to drivers (as defined in section 2477.4) that drive trucks or trailers that use TRUs or TRU gen sets on California highways.
- (d) Freight brokers and freight forwarders: Section 2477.8 applies to freight brokers and freight forwarders (as defined in section 2477.4) that arrange, hire, tender contracts for, or dispatch the transport of perishable goods on California highways or railways in trucks, trailers, shipping containers, or railcars that are equipped with TRUs or TRU gen sets.

alternative fuels (e.g. dual fuel), alternative diesel fuels, and combinations of the above.

NOTE: Authority cited: sections 39600, 39601, 39618, 39658, 39659, 39666, 39667, 43013, 43018, California Health and Safety Code. Reference: sections 39618, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.2, 42410, 40717.9, 43013, and 43018, California Health and Safety Code.

2477.5 Requirements for Owners or Owner/Operators.

(a) **In-Use Performance Standards:** In accordance with the schedule set forth below in paragraph (b), no owner or owner/operator shall operate a TRU or TRU gen set in California unless it meets the in-use emission category performance standards set forth below.

- (1) In-Use performance standard categories for TRU and TRU gen set engines with rated brake horsepower less than 25 horsepower (<25 hp) are shown in Table 3, along with the engine certification standards or the level of Verified Diesel Emission Control Strategy (VDECS) (see definition) that is necessary to qualify for each category.

Table 3
<25 HP TRU and TRU Gen Set In-Use PM Performance Standards

<i>In-Use Emission Category</i>	<i>Engine Certification (g/hp-hr)</i>	<i>Level of VDECS Equipped with</i>
Low Emission TRU (LETRU or L)	0.30 ²	Level 2
Ultra-Low Emission TRU (ULETRU or U)	NA ³	Level 3

(A) Compliance with the in-use performance standards can be achieved by:

1. Using a certified engine meeting the applicable nonroad/off-road emissions standards for all regulated pollutants and the in-use PM performance standard. Only engines for which certification data and deterioration factors have been provided to ARB shall be considered when determining compliance. The Executive Officer will consider such submittals, publish, and make available a list of qualifying engines.
 2. Equipping the engine with the required Level of VDECS.
- (2) In-Use performance standard categories for TRU and TRU gen set engines with rated brake horsepower greater than or equal to 25 horsepower (≥25 hp) are shown in Table 4, along with the engine certification standards or the level of VDECS that is necessary to qualify for each category.

Table 4
≥25 HP TRU and TRU Gen Set In-Use PM Performance Standards

² The Engine Certification value for the Low Emission TRU category corresponds to the Tier 4 Nonroad/Off-road Emission Standards that are to go into effect in 2008.

³ Not Applicable -- must choose another compliance option.

In-Use Emission Category	Engine Certification (g/hp-hr)	Level of VDECS Equipped with
Low Emission TRU (LETRU or L)	0.22 ⁴	Level 2
Ultra-Low Emission TRU (ULETRU or U)	0.02 ⁵	Level 3

(A) Compliance with the in-use performance standards can be achieved by:

1. Using a certified engine meeting the applicable nonroad/off-road emissions standards for all regulated pollutants and the in-use PM performance standard. Only engines for which certification data and deterioration factors have been provided to ARB shall be considered when determining compliance. The Executive Officer will consider such submittals, publish, and make available a list of qualifying engines.
 2. Equipping the engine with the required Level of VDECS.
- (3) As an alternative to meeting the ULETRU in-use performance standards in sections 2477.5(a)(1) and (2), an owner/operator may operate a TRU or TRU gen set in California meeting one of the *Alternative Technology* options listed below. Alternative Technologies qualify to meet the ULETRU in-use performance standard only if the TRU or TRU gen set is operated under the conditions included in the description listed below.

(A) Hybrid Electric TRU or electric standby-equipped TRU may qualify as an Alternative Technology, provided the following conditions are met:

1. The TRU shall not operate under diesel engine power while at a nonretail facility, except during:
 - a. An emergency (as defined);
 - b. Normal ingress, egress, and yard maneuvering, limited to 5 minutes per movement inside the facility fenceline or property boundary; or
 - c. Unit/engine pre-trip inspections, troubleshooting diagnostics, and post-repair check-out (however, this exception does not apply to the initial van chill-down before loading);
2. The facility or facilities that a TRU is normally based or frequents to load or unload perishable goods shall be equipped with electric power plugs located in the parking areas and loading spaces and the TRU shall be plugged into these power plugs during initial chill-down and whenever the refrigerated van or container contains perishable products;
3. All nonretail delivery and pick-up points (as defined) that the E/S-equipped TRU frequents to load or unload goods shall be equipped with electric power plugs if the van load includes perishable goods. Electric power plugs shall be located in the parking areas and loading spaces and the TRU shall be plugged into these power plugs during initial chill-down and

⁴ The Engine Certification value for Low Emission TRU category corresponds to the "Interim" Tier 4 Nonroad/Off-road Emission Standards that are to go into effect in 2008.

⁵ The Engine Certification value for the Ultra-Low Emission TRU category corresponds to the Tier 4 "final" Nonroad/Off-road Emission Standards that will go into effect in 2012 or 2013.