



Q&A – TRU Gensets

July 2013



Frequently Asked Questions Regarding TRU Generator Sets and the New Broker-Shipper-Receiver-Carrier-Driver Requirements

Background:

TRUs are refrigeration systems powered by integral diesel internal combustion engines designed to control the environment of temperature-sensitive products that are transported in trucks, trailers, shipping containers, and railcars. TRU generator sets (gensets) are designed and used to provide electric power to electrically driven refrigeration units of any kind. This includes, but is not limited to gen sets that provide electricity to electrically powered refrigeration systems for semi-trailer vans and shipping containers. In 2004, the TRU Airborne Toxic Control Measure (TRU Regulation)¹ was adopted by the Board to reduce diesel particulate matter emissions from TRUs and TRU gen set engines. Amendments were adopted by the Board in November 2010 and October 2011.

Most TRU gensets are owned by ocean carriers (steamship lines), not motor carriers, resulting in questions regarding who is responsible for compliance with the California Air Resources Board's TRU Regulation in-use standard requirements. TRU Advisory 13-25² explains enforcement of ARB's new requirements for brokers, forwarders, shippers, receivers, motor carriers, and drivers. The TRU Regulation's provisions for brokers³ and forwarders, shippers,⁴ and receivers,⁵ requiring that the carriers they hire only dispatch compliant gensets, applies to motor carriers. The TRU Regulation does not contain the same requirement for ocean carriers.

Who receives citations if a TRU genset is not in compliance?

Citations may be issued to an owner if they fail to bring their TRU gensets into compliance with the in-use performance standards or fail to register the TRU gensets found at California terminals. The enforcement focus for TRU gen sets will be on the genset owner for these requirements.

Will the hiring business entity (e.g. brokers, forwarders, shippers or receivers) be required to use due diligence in their carrier hiring procedures that involve gensets owned by ocean carriers?

Yes. ARB expects the broker/forwarder to coordinate with the ocean carrier to ensure the TRU gensets they own and supply to terminals and depots are compliant with the in-use standards. ARB's *Guidance for Brokers, Forwarders, Shippers, Receivers, Carriers and Drivers for Hiring and Contracting TRU-Carrier Transport of Perishable Goods on California Highways and Railways* lists various strategies for demonstrating due diligence.

The broker/forwarder should check the ARBER 100 Percent Compliant-Carrier List (<https://arber.arb.ca.gov/publicTCCRReports.arb>) to see if the ocean carrier is listed and/or the

¹ Title 13, California Code of Regulations (13 CCR), section 2477, et seq. at:

http://www.arb.ca.gov/diesel/tru/documents/fro_10-16-12.pdf

² http://www.arb.ca.gov/diesel/tru/documents/advisory_13_25.pdf

³ 13 CCR, section 2477.8

⁴ 13 CCR, section 2477.10

⁵ 13 CCR, section 2477.11

broker/forwarder should ask the ocean carrier for a letter certifying that they will only supply gensets that meet the in-use standards.

Will motor carriers and their drivers be cited if the terminal issues them a noncompliant genset owned by an ocean carrier?

It depends on the level of control and responsibility the motor carrier has in the specific situation. Below, several typical genset ownership cases, including who is responsible for compliance, are provided. Other cases will be evaluated by staff upon request.

Ocean carrier owns TRU genset

In the most common case where an ocean carrier owns the genset and a broker or forwarder hires the motor carrier, ARB recognizes that motor carriers have no control over the gensets that port terminals or depots issue to motor carriers. Therefore, motor carriers and their drivers would not be cited if they are found to be operating noncompliant gensets that are owned by ocean carriers. If an authorized enforcement person finds a noncompliant genset owned by an ocean carrier, the ocean carrier will be cited. No citations will be issued to the broker/forwarder, motor carrier, or their driver for violations of the in-use standards when the ocean carrier owns the genset. However, brokers/forwarders are still required to provide the motor carriers they hire with information for the dispatched drivers to carry, including the broker/forwarder company's name, address, and contact information for a person at the broker/forwarder company with knowledge of the transport arrangements.

Motor carriers are still responsible for providing the dispatched drivers with the broker contact information. Citations may be issued to a broker/forwarder/motor carrier if the entity fails to provide the required information to drivers.

Drivers are still responsible for providing information, upon request by an authorized enforcement person; such information includes driver license, vehicle registration, bill of lading or way bill (if loaded), motor carrier company name and contact information, and contact information for a person at the hiring business entity (e.g. broker or forwarder) with knowledge about the transport arrangements. Citations may be issued to a driver if they fail to provide required information to enforcement personnel.

Ocean carrier leases TRU genset from a lessor

The case where an ocean carrier leases gensets from a lessor is the same as the above case, except that the lessor is responsible for the gensets meeting the in-use standards. The TRU Regulation prohibits the lessor from delegating responsibility for the in-use standards to the lessee. Both the lessor and lessee would be cited if the ocean carrier is found to be operating or supplying a noncompliant, leased genset. In addition, the lessor is responsible for registering leased gensets they own in ARBER, unless the lease contract specifically delegates registration to the lessee and the lessor submits a Third-Party Confirmation Form

(http://www.arb.ca.gov/diesel/tru/documents/tru_3rd_party_lease_form5-11-09.pdf) to ARBER and notifies the lessee in writing that this requirement is delegated to the ocean carrier. All other responsibilities for broker/forwarder, motor carrier, dispatched driver, and terminal are the same as the above case. TRU Advisory 08-04 explains the TRU Regulation's requirements for leased or rented TRUs and TRU gensets.

Motor carrier owns TRU genset

In the rare case where the motor carrier owns the genset (typically limited to under-slung gensets mounted on trailer chassis) and a broker or forwarder hires the motor carrier, the broker/forwarder must use due diligence in requiring the motor carrier to only dispatch compliant gensets. The broker/forwarder, motor carrier, and dispatched driver may all be cited if the motor carrier dispatches a noncompliant genset. As the owner and operator, the motor carrier is responsible for the genset meeting the in-use standards, registering the genset in ARBER, and submitting an Operator Report to ARBER. In addition, the motor carrier must provide information to the driver regarding motor carrier business name, address, and contact information. Also, the motor carrier must pass along broker/forwarder contact information for a person with knowledge of the transport arrangements, if a broker hired the motor carrier. The dispatched driver is responsible for providing information to an authorized enforcement person, upon request; such information includes driver license, vehicle registration, bill of lading or way bill, company name and contact information for motor carrier, and hiring business company name and contact information for person with knowledge of transport arrangements.

Who is responsible for compliance with in-use performance standards and registering gensets in ARBER?

In general, TRU genset owners are responsible for compliance with the TRU Regulation's in-use performance standards if the genset operates in California. TRU genset owners are typically ocean carriers and lessors, but a few motor carriers also own TRU gensets. A TRU genset that is operational (e.g. capable of being operated) is considered to operate if it is in California. TRU genset owners are responsible for registration in ARBER if the genset is garaged, maintained, operated, or dispatched from a terminal or depot in California.

Who is responsible for terminal Operator Reports?

The TRU regulation requires operators of terminals located in California where TRU gensets are garaged, maintained (e.g. repaired, re-fueled, checked out), and/or dispatched to submit Operator Reports to ARBER. TRU Advisory 13-28⁶ explains the Operator Reporting requirements in more detail (to be published in late August 2013). The ARBER TRU Operator Report and Terminal Information Help Page⁷ explains what information is required for each report entry. Updates to the Operator Report are required within 30 days of changes to the information that is submitted to ARBER.

Port terminals and depots located in California are responsible for submitting an Operator Report to ARBER or making sure all ocean carriers they garage, maintain, re-fuel, and dispatch gensets for are submitting Operator Reports. This applies to terminals owned or affiliated with an ocean carrier and public terminals that the ocean carriers have contracted with for terminal services. Terminal operators may forego the Operator Report requirement if all of the ocean carriers they provide TRU genset garaging, maintaining, and/or dispatching services to are submitting Operator Reports using the terminal's or depot's name under the terminal information section of the Operator Report. Citations may be issued to port terminals that fail to submit Operator Reports to ARBER if inspectors find that all ocean carriers they provide genset service to are not submitting and/or updating Operator Reports. Updates to Operator Reports are required within 30 days of changes to information that have been submitted.

⁶ http://www.arb.ca.gov/diesel/tru/documents/advisory_13_28.pdf (Not available until late August 2013.)

⁷ <http://www.arb.ca.gov/arber/trureg/operator.htm>

Where can I find more information related to TRU and TRU genset requirements?

TRU Brochure #2 provides a brief overview of the TRU Regulation at:

http://www.arb.ca.gov/diesel/tru/documents/tru_brochure2.pdf

ARB's TRU Website provides more detailed information about the requirements and compliance deadlines at: <http://www.arb.ca.gov/diesel/tru/tru.htm>

ARBER registration help pages are available at: <http://www.arb.ca.gov/arber/trureg/trureg.htm>

The ARBER registration login page is at: <https://arber.arb.ca.gov/Welcome.arb?prg=tru>

The ARBER TRU Operator Report and Terminal Information Help Page is at:

<http://www.arb.ca.gov/arber/trureg/operator.htm>.

TRU Advisory 08-04 explains the TRU Regulation's requirements for leased or rented TRUs and TRU gensets at: http://www.arb.ca.gov/diesel/tru/documents/advisory_08_04.pdf.

TRU Advisory 13-25 explains ARB's enforcement plan for the freight broker, forwarder, shipper, and receiver requirements under the TRU Regulation at:

http://www.arb.ca.gov/diesel/tru/documents/advisory_13_25.pdf

The TRU Regulation, codified at 13 CCR, Section 2477, et seq, is at:

http://www.arb.ca.gov/diesel/tru/documents/fro_10-16-12.pdf

For more information

To obtain a copy of the TRU Regulation or other related compliance assistance documents, visit the TRU website at <http://www.arb.ca.gov/diesel/tru/tru.htm>. Additional questions may be addressed by calling the toll-free TRU Help Line at 1-888-878-2826 (1-888-TRU-ATCM) or (916) 327-8737.

If you require special accommodation or language needs, please call 1-888-878-2826 or email tru@arb.ca.gov. TTY/TDD/Speech users may dial 711 for a California Relay Service.