Regulatory Advisory

Last Updated April 2013

TRU Advisory: 08-04

TRU ATCM Requirements for Leased/Rented TRUs

This advisory explains the Air Resources Board (ARB) requirements with regard to identification number (IDN) application and operator reporting requirements for owner/operators of leased/rented California and non-California based transport refrigeration units (TRU) and TRU generator sets (gen sets), as required under title 13, California Code of Regulations (CCR), section 2477.12 (TRU Airborne Toxic Control Measure, or TRU ATCM).

Background

In addition to the in-use performance standards to reduce diesel particulate matter emissions, the TRU ATCM requires owner/operators of California-based TRU/ TRU gen sets to register this equipment with ARB by applying for IDNs, and filing Operator Reports. Updates to the ARB IDNs and Operator Reports are also required within 30 days of changes specified in the TRU ATCM. The requirements for lessors and lessees are set forth at title 13, California Code of Regulations (CCR), section 2477.12.

For the purposes of the TRU ATCM, “Owner” means, except as modified by paragraphs (A) or (B) below, the person legally holding title (or its equivalent) to the TRU or TRU gen set, or either the person registered as the owner or lessee of a vehicle by the California Department of Motor Vehicles or its equivalent in another state, province, or country, as evidenced on the vehicle registration document carried in the vehicle to which the TRU is attached, unless such person, can clearly demonstrate, with written documentation, that another person (e.g., a lessee) is financially responsible for the maintenance of the TRU or TRU gen set, including responsibility for installing and maintaining the emissions control technologies on the TRU or TRU gen set, and registering the TRU with the California Air Resources Board’s Equipment Registration (ARBER) system, as required by this subarticle. An owner may also be a driver or operator.

(A) Banks, other financial lending institutions, or other entities engaged in the act of financing TRUs are not owners, for the purposes of this subarticle unless they otherwise have an obligation to comply with this regulation (e.g., contractually responsible for the maintenance of a TRU under a sales or lease agreement).

(B) For a TRU-equipped truck or trailer, or TRU gen set owned by the federal government and not registered in any state or local jurisdiction, the owner means the department, agency, branch, or other entity of the United States, including the United States Postal Service, to which the vehicles in the fleet are assigned or which have responsibility for maintenance of the vehicles.

“Operator” is defined as any person, party, or entity that operates a TRU/TRU gen set for the purposes of transporting perishable goods, excluding the driver and third party maintenance/repair service.

“Owner/operator” means a requirement applies to the owner and/or operator of a TRU/TRU gen set, as determined by contract between parties if the two parties are separate business entities.

“Terminal” is any place a TRU/TRU gen set equipped truck, trailer, shipping container, railcar or TRU gen set is regularly garaged, maintained, operated, or dispatched from, including a dispatch office, cross-dock facility, maintenance shop, business, or private residence.

The in-use performance standards, compliance dates, and reporting deadlines specified in the TRU ATCM and compliance assistance materials are on the TRU website at http://www.arb.ca.gov/diesel/tru/tru.htm. Registration applications for ARB IDNs and Operator Reports are best filed electronically at the ARBER Website at: http://www.arb.ca.gov/arber/arber.htm. Manual forms are available at the TRU website at http://www.arb.ca.gov/diesel/tru/tru.htm..

What are ARB's policies?

TRU/TRU gen set "lessors" are owners of TRU/TRU gen sets that convey the use of their property by lease or rental agreement to renters or lessees. For the purposes of the ARB IDN and Operator Reports, the terms "renter" and "lessee" have the same meaning, in that they hold property (e.g. TRU) under a lease or rental agreement. A TRU/TRU gen set rental yard or lease business qualifies as a terminal. A "rental unit" is a TRU/TRU gen set that is rented with no contractual term, and the renter may return the unit to the lessor at any time without contractual consequence. A "lease unit" is a TRU/TRU gen set that is leased under a contractual term, typically 13 months or more.

Lessors (owners) are subject to all of the following requirements:

- Comply with the in-use performance standards. This responsibility cannot be delegated to the lessee, but the cost of compliance may be passed to the lessee if covered in the contract.
- Apply for an ARB IDN for each TRU/TRU gen set, unless delegated by written agreement to the lessee (see below).
- Paint or affix the ARB IDN onto the TRU/TRU gen set housing (as described in the TRU ATCM), unless delegated by written agreement to the lessee.
- Submit an initial Operator Report for each California terminal listing each TRU/TRU gen set ARB IDN domiciled at a terminal. Leased units in the possession of a lessee do not need to be entered in the initial Operator Report, but must be added upon return. Rented units must always be included in the Operator Report and any lease unit that has been domiciled at the lessor's terminal for more than 30 days must be added to the lessor's Operator Report.
- Update ARB IDN information within 30 days when ownership, equipment, engine, or compliance information changes.
- Update Operator Reports within 30 days when owner/lessor information changes, terminals are removed or contact information changes, or ARB IDNs are added to or removed from a terminal's inventory. Updates are not required for rental units every time the unit is rented or returned.

The owner (lessor) may delegate to the operator (lessee) the responsibilities of the ARB IDN application through a lease or rental contract. At least 10 days prior to the lessee submitting an IDN application, the owner (lessor) is required to submit an ARB Third Party Agreement Form to ARB showing proof of the contractual delegation (see below), and provide a signed copy of the form to the lessee.

Lessees (operators) are subject to all of the following requirements:

- Apply for an ARB IDN for each TRU/TRU gen set, if delegated by contract to the lessee by the lessor (lessor must have submitted Third Party Agreement form at least 10 days before applying for an ARB IDN).
- Provide lessor with a copy of the ARBER TRU Registration Confirmation.
- Paint or affix, if applicable, and maintain the ARB IDN on the TRU/TRU gen set housing (as described in the TRU ATCM).
- Submit an initial Operator Report for each terminal located in California listing all ARB IDNs of owned and leased TRU/TRU gen sets domiciled at the terminal, including leased TRU/TRU gen set ARB IDNs (ARB IDNs for rental units do not need to be listed).

- Update Operator Reports within 30 days when business or contact information changes, terminals are added or removed, or ARB IDNs are added or removed (owned and leased units only).

Delegation:

Lessors may elect to delegate the responsibility for registering a TRU or TRU gen set to the lessee, provided those responsibilities are delegated in the lease contract. "Delegation" is entrusting by contract another party to act on the owner's behalf without forfeiture of any rights or property. To delegate ARB IDN application responsibilities to an operator (lessee), the owner shall submit an ARB Third Party Agreement Confirmation Form (SSD/EAB-Form # 28, available at: http://www.arb.ca.gov/arber/forms.htm) for leased units, with the signature of the lessor's responsible official. The lessor must attach a copy of the page(s) of the lease contract that identifies the parties to the contract and the page(s) of the lease contract with the contractual language highlighted or delineated that clearly demonstrates delegation of the registration requirements. Submit SSD/EAB Form # 28 and the highlighted contract pages to ARB by email (PDF) at arber@arb.ca.gov, or mail to:

California Air Resources Board
Stationary Source Division (TRU)
1001 I Street
Sacramento, California 95814

The responsible official is the individual employed or otherwise retained by the lessor's company that has authority to certify that the legal agreement described above is in effect and that the responsibilities for compliance and/or reporting with the TRU ATCM have been delegated to the lessee. By signing the ARB Third Party Agreement Confirmation Form for leased units, the lessor certifies that the lessee has received a copy of the form and has been notified of the delegation of the TRU ATCM IDN application requirement. The lessee, in return, must send a copy of the ARBER TRU Registration Confirmation to the lessor upon completion of the ARB IDN application.

For more information

To obtain a copy of the 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).

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.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame 1-888-878-2826. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.