



TRU Advisory: 13-25

Enforcement of the Broker-Forwarder-Shipper-Receiver Requirements Under the Transport Refrigeration Unit Regulation

What is the purpose of this advisory?

This advisory explains the California Air Resources Board's (ARB) enforcement plan for the freight broker, forwarder, shipper, and receiver requirements under the Transport Refrigeration Unit (TRU) Airborne Toxic Control Measure (ATCM or Regulation).¹ These new requirements are needed to protect public health and ensure that TRU owners that have invested in cleaner equipment are not at a competitive disadvantage relative to noncompliant carriers.

When will these new requirements go into effect?

The new requirements for brokers, shippers, receivers went into effect January 1, 2013.

Who is subject to the new requirements?

The new requirements apply to the business entity that hires carriers for the transport of refrigerated goods on California highways and railways. This can be a broker, forwarder, shipper, or receiver. Carriers and their drivers also have new requirements.

What are the basic requirements?

Any business entity that hires carriers to transport perishable goods on California highways and railways must require the carriers they hire or contract with for transport of perishable goods, to only dispatch TRUs or TRU gen sets that comply with the TRU Regulation's in-use performance standards. The hiring business entity must also provide their contact information to the carrier, which must then be carried with the driver.

Shippers and receivers must dispatch TRUs or TRU gen sets that comply with the TRU Regulation's in-use performance standards if they travel on California highways or railways. Shippers and receivers must also provide information to the carrier about the shipper and receiver names and addresses.

Carriers must only dispatch compliant TRUs and TRU gen sets on California highways and railways. Carriers must also provide the driver with contact information for the shipper, receiver, and business entity that hired the carrier.

Drivers must, upon request by authorized personnel, provide their driver's license, vehicle registration, bill of lading (or freight bill) with the origin and destination of the freight being transported.

¹ TRUs and TRU generator sets are subject to the TRU Regulation under title 13 California Code of Regulations (13 CCR) sections 2477.1 through 2477.21. The requirements explained in this regulatory advisory for freight brokers, forwarders, shippers, receivers, carriers, and drivers are found in sections 2477.7 through 2477.11.

Drivers must also, upon request by authorized personnel, provide contact information for the carrier, shipper, receiver, and business entity that hired the carrier.

How and where will ARB enforce these requirements?

ARB inspectors will be inspecting TRUs at distribution centers, intermodal facilities, packing houses, cold storage warehouses, terminals, ports, railyards, border crossings, scales, roadside inspection centers, and truck stops. Citations will be issued when authorized enforcement personnel find violations of the requirements. State Law establishes penalties for violations of ATCM requirements of up to \$10,000 per violation. ARB's enforcement penalty policies are described in detail at: <http://www.arb.ca.gov/enf/sb1402/policy.pdf>. The proposed penalty amount may be adjusted based on the relevant circumstances, such as the extent of harm to public health, safety, and welfare; nature and persistence of the violation; compliance history of the defendant; preventive efforts and actions taken to ensure compliance prior to the violation; magnitude of effort required to comply; cooperation of the defendant; and financial position of the defendant.

Drivers that fail to provide the required driver information may be cited.

Carriers that dispatch noncompliant TRUs will be cited. Carriers may also be cited if their drivers indicate the carrier failed to forward to them the information from the hiring business entity.

Shippers and receivers that dispatch noncompliant TRUs will be cited. Penalties will likely start at \$1,000 per violation. Shippers and receivers may also be cited if they fail to provide the shipper and receiver contact information to the carriers they hire.

Audits may be initiated against a hiring business entity if investigators find a pattern of multiple citations identifying the same business hiring noncompliant TRUs. As a first step, ARB investigators will audit the business entity that hired the carrier to determine if they used due diligence in their hiring processes. The hiring business entity will need to show the investigator documentation that shows their hiring procedures included adequate steps to ensure the carrier has the ability to dispatch compliant TRUs and required the carrier to dispatch compliant equipment. If that process is found to be inadequate, the hiring business entity will be cited and penalized.

What are some strategies that a hiring business entity might use to make sure they only hire carriers with compliant TRUs?

ARB's *Guidance for Brokers, Shippers, Receivers, Carriers, and Drivers on Hiring and Contracting for TRU-Carrier Transport of Refrigerated Goods on California Highways and Railways* includes a number of strategies that hiring business entities can use. They include, but are not limited to:

1. Send the carriers you normally do business with an annual notice that you will not hire a carrier that can't show you that they are compliant with ARB's in-use performance standards. Tell the carriers you do business with to bring their TRUs into compliance and register in ARBER.
2. Require the carriers you do business with to show they can supply TRUs that are compliant with the TRU Regulation's in-use standards. Require them to provide you with a current ARBER Certification Page for each of their TRUs. Build a file for each carrier you do business with that includes their current ARBER Certification Pages for the TRUs they will dispatch on California highways or railways. Require updated Certification Pages to maintain current compliance status.
3. Encourage the carriers you do business with to only operate 100 percent compliant TRUs and to make sure they are listed on ARB's 100 Percent Compliant Carrier List, if they plan to do business with you. Check ARB's 100 Percent Compliant Carrier List to ensure the carriers you hire are currently listed as 100 percent compliant with ARB's TRU Regulation in-use standards.

4. When you advertise for an available load, make sure you require ARB-compliant TRUs. For example, the equipment specification on a load board should require an ARB-compliant TRU if the load could travel on California highways or railways.
5. Contracts with refrigerated carriers need to include language that requires an ARB-compliant TRU if the load could travel on California highways or railways.
6. Shippers should use bills of lading (or equivalent freight documents) for refrigerated loads that include bold language that the carrier or their agent signs next to, certifying that the equipment used to transport these goods is compliant with ARB's TRU Regulation in-use standards.

What resources and links are available?

- Regulatory Guidance for Brokers, Forwarders, Shippers, Receivers, Carriers, and Drivers: http://www.arb.ca.gov/diesel/tru/documents/guidance_broker-shipper-receiver.pdf
- TRU Website: <http://www.arb.ca.gov/diesel/tru/tru.htm>
- TRU Compliance Search Page (Public): <https://arber.arb.ca.gov/publicTruSearch.arb>
- 100 Percent-Compliant Carrier List: <https://arber.arb.ca.gov/publicTCCReports.arb>
- ARBER website (registration): <http://www.arb.ca.gov/arber/arber.htm>
- ARBER email: arber@arb.ca.gov
- TRU Help Line: 1-888-878-2826
- TRU List Serve: <http://www.arb.ca.gov/listserv/tru.htm>

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. The emissions from these units are a source of unhealthy air pollutants including particulate matter, toxic air contaminants, nitrogen oxides, carbon monoxide, and hydrocarbons, and pose a potential threat to both public health and the environment. These units often congregate in large numbers at California distribution centers, grocery stores, and other facilities where they run for extended periods of time to ensure their perishable contents remain cold or frozen. These distribution and loading facilities are often in close proximity to schools, hospitals, and residential neighborhoods. In 2004, the TRU Regulation was adopted by the Board to reduce diesel particulate matter emissions from TRUs and TRU generator set engines. The TRU Regulation is designed to accelerate the cleanup of existing (in-use) TRUs and TRU generator sets through retrofit with verified diesel emission control strategies (VDECS), engine repowers, use of Alternative Technologies, or unit replacements. The TRU Regulation's in-use standards are phased in and will reduce diesel particulate matter (PM) emissions from in-use TRU and TRU generator set engines that operate in California. The Board adopted amendments to the TRU Regulation on November 18, 2010,² and October 21, 2011.³

² ARB's Regulatory Activity webpage for the 2010 rulemaking is at: <http://www.arb.ca.gov/regact/2010/tru2010/tru2010.htm>

³ ARB's Regulatory Activity webpage for the 2011 rulemaking is at: <http://www.arb.ca.gov/regact/2011/tru2011/tru2011.htm>

For more information

Additional questions may be addressed by calling the toll-free TRU Help Line at 888-878-2826 (888-TRU-ATCM). 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>. If you need this document in an alternative format or another language, please call 888-878-2826 or email arber@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 al 1-888-878-2826 o contáctenos por correo electrónico a arber@arb.ca.gov. Para Servicios de Relevos de California (CRS) o para el uso de teléfonos TTY, marquen al 711.

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