



Regulatory Advisory

Last Updated April 2013



TRU Advisory: 08-16

TRU ATCM Requirements for Banks and Financial Institutions

This advisory explains the Air Resources Board (ARB) policy with regard to banks and financial institutions that provide financing for transport refrigeration units (TRU) and TRU generator sets (gen sets).

Background

As required under title 13, California Code of Regulations (CCR), section 2477 (TRU Airborne Toxic Control Measure, or ATCM), owner/operators of all TRU/TRU gen sets shall comply with in-use performance standards for diesel particulate matter starting December 31, 2008. California-based TRU/TRU gen set owner/operators are also required to apply for ARB Identification Numbers (IDN) and submit initial Operator Reports to ARB by January 31, 2009 (enforcement delayed until July 31, 2009). ARB recommends, but does not require, that non-California-based TRU/TRU gen set owner/operators apply for an ARB IDN.

“Owner” means the person legally holding title (or its equivalent) to the TRU or TRU gen set, or either the person (see definition) 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.

The definition of owner does not include:

- (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.

What are ARB’s Policies?

Banks and financial institutions provide financing for and/or lease TRU/TRU gen sets to borrowers and lessees. For the purposes of this regulation, banks and financial institutions are not the TRU/TRU gen set owners even if they hold legal title to the TRU/TRU gen set. In this case, the owner responsibilities of the TRU ATCM fall to the borrower or lessee of the TRU/TRU gen set. The borrower/lessee is responsible for compliance with the in-use performance standards, ARB IDN application, submitting the initial Operator Report, and updating the ARB IDN information and Operator Reports as required.

An owner (borrower/lessee) that sub-leases TRU/TRU gen sets becomes the lessor in the sub-lease contract and is required to comply with the in-use performance standards, ARB IDN application, and initial Operator Report submittal. The lessor may delegate the ARB IDN application responsibilities to the sub-lessee (operator) through the lease-rental contract, but compliance with the in-use performance standards and initial Operator Report remains the responsibility of the owner (lessor). To delegate ARB IDN responsibilities to a lessee, the lessor must submit an ARB Third Party Agreement Form to ARB showing proof of contractual delegation. For more information regarding delegation of the TRU ATCM requirements for leased and rented TRU/TRU gens sets see TRU Advisory 08-04: TRU ATCM Requirements for Leased/Rented TRU/TRU gen sets.

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.