



## TRU Advisory: 12-23

### Prohibitions on Sale of Noncompliant TRUs and Engines

#### Who is this advisory for?

This advisory is for manufacturers, distributors, dealers, repair shops, auctioneers, motor carriers, import/export agents, salvage yards, or any person that sells, offers for sale, imports, delivers, purchases, receives, or otherwise acquires transport refrigeration unit (TRU), TRU generator sets, TRU engines or TRU generator set engines.

#### What is prohibited?

There are several prohibitions that apply to the sale of noncompliant TRUs and TRU engines:

1. The TRU Regulation<sup>1</sup> prohibits any person, including but not limited to, manufacturers, distributors, dealers, auctioneers, and motor carriers, from importing, delivering, purchasing, receiving, or otherwise acquiring a new or used TRU that does not meet ARB's TRU Regulation's in-use performance standards.<sup>2</sup> An exception exists under 13 CCR, section 2477.14(b), that allows dealers to purchase or take ownership of (as part of a trade-in) noncompliant TRUs; but, dealers are still subject to the same prohibitions on selling noncompliant TRUs.
2. The TRU Regulation also prohibits selling or offering for sale to an ultimate purchaser who is a resident of California, or a person who could reasonably be expected to do business in California, a TRU or TRU generator set that does not comply with the in-use performance standards set forth in the TRU Regulation.
3. The TRU Regulation 2011 amendments now require disclosure if a noncompliant TRU or TRU engine is sold to a person living outside of California. The bill of sale for a noncompliant TRU or TRU engine must disclose to out-of-state buyers that the TRU is **not** compliant for use in California and must meet the TRU Regulation's in-use performance standards before operating in California. The following statement must be included in the bill of sale of any noncompliant TRU that is sold to a person living outside of California: *"This TRU does not currently meet California's in-use performance standards under title 13, California Code of Regulations, section 2477.5, and is therefore not compliant for use in California."*
4. The 2011 amendments also added a provision that requires disclosure if a TRU owner is selling a TRU that is equipped with an Alternative Technology in-use compliance option, such as electric standby (E/S) or hybrid electric. The seller must provide a written disclosure explaining that such equipment is not compliant unless it is used in a way that qualifies the E/S as an Alternative Technology.<sup>3</sup>

<sup>1</sup> California's TRU Airborne Toxic Control Measure (ATCM or Regulation) is set forth at title 13, California Code of Regulations (13 CCR), sections 2477.1 through 2477.21. Prohibitions on the sale of noncompliant TRUs are listed at 13 CCR, section 2477.18.

<sup>2</sup> In-use performance standards are set forth in, section 2477.5(a).

<sup>3</sup> The criteria for qualifying as an Alternative Technology are listed in 13 CCR, section 2477.5(a)(3).

5. Federal and state laws<sup>4</sup> require that when an in-use engine is replaced by a new engine that does not meet the emissions standards currently in effect at the time the new replacement engine is manufactured, the engine manufacturer or their agent (e.g. original equipment manufacturer, distributor, dealer, repair shop, etc.) must take ownership and possession of the old engine being replaced or confirm that the old engine has been destroyed.

### **Why are these prohibitions needed?**

Prohibiting the sale of noncompliant TRUs and TRU engines is intended to ensure they do not continue to operate in California, thus reducing diesel particulate matter emissions. Requiring old engines to be destroyed after they are removed is intended to make sure these engines are permanently removed from operation.

In addition, the prohibition on sale of noncompliant TRUs and TRU engines is designed to ensure that buyers are not misled into purchasing equipment they believed could be operated in California, only to learn after the sale that they are facing unexpected compliance costs, or in the case of E/S, operational limits that could not be met.

### **Where do these prohibitions apply?**

The prohibitions that are attributed to the TRU Regulation (listed items 1 through 4, above) apply to all sales and purchases that take place in California or to persons who could reasonably be expected to do business in California. In addition, bill of sale disclosures, as described above, are required for all sales of noncompliant TRUs to a person who is a resident outside of California. The prohibition that applies to an old engine that is replaced (item 5, above) is a federal requirement, so it applies throughout the United States.

### **How do I ensure compliance with these prohibitions?**

Noncompliant TRUs and TRU engines may be sold to a person who is a resident outside of California that is not reasonably expected to do business in California, provided the seller gives the buyer a bill of sale with the required warning language shown above. Alternatively, noncompliant TRUs and TRU engines may be sold to a salvage company in California for scrap value, provided the bill of sale includes the required warning language shown above. Any further sale by the salvage company is subject to the same prohibitions described in this advisory.

### **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

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<sup>4</sup> See title 40, Code of Federal Regulations, sections 89.1003(b)(7)(ii) and 1068.240(b)(4), and 13 CCR, section 2423(j)(1)(B).

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,<sup>5</sup> and October 21, 2011.<sup>6</sup>

#### **Additional Q&A:**

**1. If I sell a noncompliant TRU to a person who resides outside of California and I provide the required disclosure to the buyer in the bill of sale, am I still liable for citation and penalty if they are cited for operating the noncompliant TRU in California?**

As long as you provide the written disclosure in the bill of sale, you will not be cited. We recommend that you keep copies of the bill of sale for your records, so that you can demonstrate that you met the intent of the law.

**2. Can I sell noncompliant TRU engines to an agent who exports these engines to countries outside of the United States?**

The intent of the prohibitions is to prevent noncompliant units, and noncompliant engines, from being sold into service in California. A noncompliant TRU engine may be sold to a person who is a resident outside of California who is not reasonably expected to do business in California, provided the seller gives the buyer a bill of sale with the required warning language shown above. Any further sale by the person is subject to the same prohibitions described in this advisory.

**3. Can I buy a noncompliant TRU, with the understanding that I will bring it into compliance before operating it in California?**

The regulation prohibits selling **or buying** noncompliant TRUs;<sup>7</sup> however, a noncompliant TRU may be brought into compliance concurrent with the sale. In this case, the sales agreement between the buyer and seller would need to stipulate that compliance with the in-use performance standards would be achieved before the buyer takes possession and transfer of title. The buyer and seller would have to agree on who pays for compliance.

#### **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 888-878-2826 (888-TRU-ATCM). If you need this document in an alternative format or another language, please call 888-878-2826 or email [arber@arb.ca.gov](mailto: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](mailto: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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<sup>5</sup> ARB's Regulatory Activity webpage for the 2010 rulemaking is at: <http://www.arb.ca.gov/regact/2010/tru2010/tru2010.htm>

<sup>6</sup> ARB's Regulatory Activity webpage for the 2011 rulemaking is at: <http://www.arb.ca.gov/regact/2011/tru2011/tru2011.htm>

<sup>7</sup> See 13 CCR, section 2477.18(a)