

# Appendix G

## Fee Development

Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate

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This appendix describes California Air Resources Board (CARB or Board) staff's consideration of Senate Bill (SB) 854 criteria for adopting a schedule of fees and methodology for determining the fee amounts included in the proposed amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled TRUs, TRU Generator Sets, and Facilities Where TRUs Operate (TRU ATCM; title 13, California Code of Regulations, section 2477), hereafter referred to as the "Proposed Amendments."

CARB has historically used existing funds (primarily the Motor Vehicle Account) to implement and enforce the TRU ATCM. On June 27, 2018, California passed SB 854 (Committee on Budget and Fiscal Review, Chapter 51, Statutes of 2018).<sup>1</sup> SB 854 allows CARB to adopt a schedule of fees to cover all or part of CARB's reasonable costs associated with certification, audit, and compliance of off-road or non-vehicular engines and equipment, aftermarket parts, and emission control components sold in the State (limited to activities covered by Health & Saf. Code sections 38560, 43013 and 43018, on-road aftermarket parts under Vehicle Code section 27156(h)). As such, this legislation provides CARB the authority to assess fees to cover its reasonable costs, with specific considerations, on off-road and other mobile source certification and compliance programs not currently covered under the fee regulation authority in Health & Saf. Code section 43019. This new authority is housed in Health & Saf. Code section 43019.1. CARB will deposit fees collected into the Certification and Compliance Fund as required under Health & Saf. Code section 43019, used to support mobile source certification and compliance activities. The Proposed Amendments include TRU operating fees and applicable facility registration fees. The proposed fees cover CARB's reasonable costs associated with the certification, audit, and compliance of TRUs, as allowed by SB 854.

## **A. Consideration of Senate Bill 854 Criteria**

To develop the fees for the Proposed Amendments, staff considered the criteria outlined in SB 854 described below.

### **1. Potential Impacts on Manufacturers that may Result from the Fee**

The Proposed Amendments would impose fees on TRU and applicable facility owners. Staff do not anticipate significant impacts on TRU or applicable facility owners because the proposed fee amounts are relatively small compared to the total cost of the Proposed Amendments. In addition, the average annual fee amount for a TRU or applicable facility owner is less than one percent of their annual revenue. More

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<sup>1</sup> California Health and Safety Code § 43019.1, Division 26, Senate Bill No. 854, July 27, 2018. (web link: [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB854](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB854))

information on the cost to typical and small businesses to comply with the Proposed Amendments is provided in Chapter X of the ISOR.

Manufacturers would not be subject to fees. As such, staff do not anticipate impacts on manufacturers, product pricing, or product availability as a result of the proposed fees.

## **2. Size of Manufacturer**

There are two major TRU manufacturers in the market today, and several smaller ones. The proposed fees are not linked to size of the manufacturer. CARB staff does not anticipate a change in how businesses subject to the fee purchase TRUs, nor does CARB staff anticipate a shift in favor of or away from larger TRU manufacturers on the basis of the proposed fees.

In general, smaller businesses own fewer TRUs or applicable facilities. Because the proposed fees are assessed per TRU or applicable facility, businesses with fewer TRUs or applicable facilities would be subject to lower fees than businesses with a greater number of TRUs or facilities.

## **3. Number of Certifications Requested and Consistency with Prior Year Certifications by the Manufacturer/Anticipated Change in the Number of Certifications Issued Annually**

Fees would be assessed for each TRU reported and applicable facility registered with CARB. CARB staff calculated the fee amounts based on TRU populations from the statewide TRU inventory (Appendix H to the ISOR) and applicable facility populations from the Applicable Facility Inventory (Appendix F to the ISOR). Both inventories account for an annual 1.6 percent growth rate. Staff also applied an approximate 13 percent non-compliance rate, which is based on the average of non-reporting assumed in the statewide TRU inventory (3.75 percent) and the percentage of citations issued by CARB's Enforcement Division for non-reporting violations in 2019 (21 percent).<sup>2</sup>

## **4. Complexity of the Regulated Category**

Staff determined that compliance monitoring and enforcement activities related to zero-emission TRUs would be less resource intensive than existing monitoring and enforcement and therefore would have a lower TRU operating fee.

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<sup>2</sup> California Air Resources Board, 2019 Annual Enforcement Report, June 2020. (web link: [https://ww2.arb.ca.gov/sites/default/files/2020-06/2019\\_Annual\\_Enforcement\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-06/2019_Annual_Enforcement_Report.pdf))

## **5. A Product's Potential Impact on Emissions**

Zero-emission TRUs are subject to a lower TRU operating fee compared to a diesel-powered TRU.

## **6. Potential Impacts for Enacting a Partial Fee that does not Fully Cover the State Board's Costs**

The Proposed Amendments include TRU operating fees and applicable facility registration fees to fully cover CARB's reasonable costs associated with certification, audit, and compliance of TRUs. However, the proposed fee amounts are based on estimated populations and compliance rates. Actual collected fee revenue may not fully cover TRU program costs. CARB has previously relied on existing funding from sources other than TRU and applicable facility owners and it is expected to continue to do so to some degree. Staff expects minimal or no impact on the processing time for TRU reporting or applicable facility registrations because of this funding structure.

### **B. Determination of Fee Amounts**

To develop the fees for the Proposed Amendments, CARB staff determined the reasonable costs for the certification, audit, and compliance of TRUs. Costs include labor and operations. Below is a description of both cost categories.

#### **1. Labor Costs**

Labor costs include both the direct labor to implement TRU program activities (Direct Labor) and overhead costs that include administrative management, legal, and information technology costs to run the agency (Indirect Labor).

##### **a. Direct Labor**

The Direct Labor cost includes existing staff in the Transportation and Toxics Division and Enforcement Division, as well as new positions that CARB expects to secure in a budget change proposal. The need for additional staff is due to new requirements in the Proposed Amendments for out-of-state-based TRU reporting, TRU operating fees, applicable facility registration, applicable facility registration fees, and applicable facility reporting. New staff will assist owners with TRU reporting and applicable facility registration; provide technical assistance; issue compliance labels; conduct unit, fleet, and facility inspections; conduct fleet and facility investigations; and issue and process citations. Direct Labor costs include each staff and first level manager that would directly work on TRU program activities. Second level managers or above were not included in the calculation.

The percent time spent on TRU program activities is based on time estimates provided by current TRU program staff. The percent time was summed into a person year (PY) activity level for each classification. Each staff PY time was multiplied by the 2021 Fiscal Year Labor Budget class cost, which is a mid-range salary for each classification and includes benefits, operating expense, and equipment. Fiscal Year Labor Budget class cost is calculated annually through an administrative process which annualizes the California Department of Human Resources monthly salary by position class, adds an average of 53 percent of the salary cost for benefits, and adds an average of 20 percent of the salary cost for operating expenses and equipment for each class. Each class has its own benefit and operating expenses and equipment determination.

Table 1 and Table 2 show the annual Direct Labor cost for existing and new TRU program staff, respectively. The Direct Labor cost does not reflect the roughly 9.23 percent cut to labor costs across most State bargaining units as a result of negotiations in response to the current economic condition and anticipated impact on the State budget. Most of the agreements are temporary and are anticipated to have minimal impact during the effective dates of the Proposed Amendments.

**Table 1. Annual TRU Program Direct Labor Cost – Existing Staff**

| Classification                 | PY Time Estimate | 2021/2022 FY Cost | Annual Direct Labor Cost |
|--------------------------------|------------------|-------------------|--------------------------|
| Air Pollution Specialist       | 0.75             | \$195,000         | \$146,250                |
| Air Resources Engineer         | 0.5              | \$206,000         | \$103,000                |
| Air Resources Supervisor I     | 0.25             | \$238,000         | \$59,500                 |
| Staff Air Pollution Specialist | 0.25             | \$220,000         | \$55,000                 |
| Total                          | 1.75             | n/a               | \$363,750                |

**Table 2. Annual TRU Program Direct Labor Cost – New Staff**

| Classification              | PY Time Estimate | 2021/2022 FY Cost | Annual Direct Labor Cost |
|-----------------------------|------------------|-------------------|--------------------------|
| Air Resources Supervisor I  | 1.0              | \$238,000         | \$238,000                |
| Staff Services Manager I    | 1.0              | \$156,000         | \$156,000                |
| Air Pollution Specialist    | 4.0              | \$195,000         | \$780,000                |
| Air Resources Technician II | 16.0             | \$101,000         | \$1,616,000              |
| Total                       | 22.0             | n/a               | \$2,790,000              |

**b. Indirect Labor**

Indirect Labor includes the management, administrative, legal, and information technology costs to run the agency. The Indirect Labor percentage was calculated directly for the agency using Division, Executive Office, and Chair Office management, Administrative Services Division, Legal Office, and information technology services staffing divided by the total agency labor force. The Indirect Labor percentage was

calculated as 26 percent of the Direct Labor cost for CARB. Indirect labor costs tend to be spread evenly across the agency.

### c. Total Labor Cost

Table 3 shows the total annual labor cost for the TRU program.

**Table 3. Total Annual TRU Program Labor Cost**

| Annual Direct Labor Cost | Annual Indirect Labor Cost | Total Annual Labor Cost |
|--------------------------|----------------------------|-------------------------|
| \$3,153,750              | \$819,975                  | \$3,973,725             |

## 2. Operational Costs

Operational Costs are the direct costs to conduct program activity. As shown in Table 4, this includes compliance labels, envelopes, and postage.

**Table 4. TRU Program Operational Costs**

| Item                           | Quantity Purchased Per Year | Estimated Cost Per Item | Operational Cost |
|--------------------------------|-----------------------------|-------------------------|------------------|
| Compliance Label (two per TRU) | 161,488                     | \$2.50                  | \$403,721        |
| Envelope                       | 80,744                      | \$0.07                  | \$5,652          |
| Postage                        | 80,744                      | \$0.62                  | \$50,061         |
| Total                          | n/a                         | n/a                     | \$459,435        |

## 3. Fee Calculation

CARB staff calculated the fee amounts based on TRU populations from the statewide TRU inventory (Appendix H to the ISOR) and applicable facility populations from the Applicable Facility Inventory (Appendix F to the ISOR). Based on the TRU and applicable facility populations, staff determined the average annual number of TRUs and applicable facilities that would be required to pay fees over a ten-year period beginning in 2023 if the fees were collected every three years. The ten-year period was used to reflect the average useful life of a TRU.

To determine the fee amounts, staff accounted for non-compliance since it is reflective of actual conditions. This results in a more accurate estimate of the number of TRUs and facilities that would comply with the fee requirements and the resulting fee revenue that CARB would collect. Staff applied an approximate 13 percent non-compliance rate, which is based on the average of non-reporting assumed in the statewide TRU inventory (3.75 percent) and the percentage of citations issued by CARB's Enforcement Division for non-reporting violations in 2019 (21 percent).

Table 5 shows the cost per TRU or applicable facility and zero-emission TRU, respectively.

**Table 5. Cost per TRU or Applicable Facility (to be Collected Every 3 Years)**

| Total Annual Average TRU Program Cost | Average Annual Number of TRUs/ Applicable Facilities Subject to Fees | Average Annual Number of Zero-Emission TRUs Subject to Fees | Cost per TRU/ Applicable Facility (every 3 years) | Cost per Zero-Emission TRU (every 3 years) |
|---------------------------------------|--|---|---|--|
| \$4,433,160                           | 81,201   | 1,965   | \$54  | \$27                                       |

The fee calculation is based on estimated population numbers and non-compliance rates. CARB may amend the fee amounts in a future rulemaking if collected fees do not fully cover CARB’s costs for activities associated with the TRU program.