

State of California
AIR RESOURCES BOARD

Resolution 08-44

December 12, 2008

Agenda Item No.: 08-11-4

WHEREAS, the Legislature has enacted the California Global Warming Solutions Act of 2006 (AB 32; Health and Safety Code section 38500 et seq.), which declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California, and requires a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020;

WHEREAS, section 38510 of the Health and Safety Code, part of AB 32, designates the Air Resources Board (the Board or ARB) as the State agency charged with monitoring and regulating sources of GHG emissions that cause global warming in order to reduce such emissions;

WHEREAS, section 38560.5, subdivisions (a), (b) and (d), of the Health and Safety Code, which is also part of AB 32, required ARB to publish and make available to the public a list of discrete early action GHG reduction measures ("Discrete Early Action Measures") on or before June 30, 2007, and requires that regulations to implement the Discrete Early Action Measures be adopted on or before January 1, 2010 to be enforceable no later than January 1, 2010;

WHEREAS, section 38560.5, subdivision (c), of the Health and Safety Code requires that regulations adopted to implement Discrete Early Action Measures must achieve the maximum technologically feasible and cost-effective reductions in GHG, and section 38560 of the Health and Safety Code also directs ARB to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions from sources;

WHEREAS, the Board approved a list of early GHG actions at its June 21, 2007 hearing and approved additions to the list at its October 25, 2007 hearing, and a subset of nine of these early actions were designated as Discrete Early Action Measures;

WHEREAS, the "SmartWay Truck Efficiency" measure to reduce GHG emissions from heavy-duty trucks through improved fuel efficiency was designated as one of the Discrete Early Action Measures to be established by regulation on or before January 2, 2010;

WHEREAS, sections 39600 and 39601 of the Health and Safety Code also authorize ARB to adopt standards, rules and regulations and to do such acts as may

be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, in section 43000 of the Health and Safety Code, the Legislature declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state, and sections 39002 of the Health and Safety Code charges the Board with the responsibility of air pollution control from motor vehicles, except as otherwise provided in Division 26 of the Health and Safety Code;

WHEREAS, California's transportation sector is the leading source of GHG emissions in the state, contributing almost 40 percent of the state's annual GHG emissions;

WHEREAS, heavy-duty trucks account for approximately 20 percent of the transportation sector emissions, making them the second largest contributor towards transportation emissions;

WHEREAS, the United States Environmental Protection Agency (U.S. EPA) developed in 2004 a voluntary program called the SmartWay Partnership Program, which is designed to improve the environmental performance associated with the ground freight movement system in the United States and includes the certification of fuel efficient on-road, long-haul heavy-duty tractors and box-type trailers, and the verification of fuel efficiency improving retrofit devices for these types of tractors and trailers;

WHEREAS, despite the availability of fuel-efficient heavy-duty tractors and trailers and retrofit devices that improve fuel efficiency, most long-haul heavy-duty trucks that operate on California highways are not using these technologies;

WHEREAS, these technologies that reduce greenhouse gas emissions and the emission of other air pollutants through improved fuel efficiency also generate operating cost savings to heavy-duty tractor and trailer owners;

WHEREAS, the proposed regulation would become effective on January 1, 2010;

WHEREAS, ARB staff conducted five series of public workshops throughout California in 2008, conducting a total of 39 workshops, and also participated in numerous other meetings with various stakeholders in order to include the public and affected stakeholders in the regulatory development process;

WHEREAS, the California Environmental Quality Act, section 21000 et seq. of the Public Resources Code, and Board regulations at California Code of Regulations, title 17, section 60006 require that no project that may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, the Board has considered the impact of the proposed regulation on the economy of the State and the potential for adverse economic impacts on California business enterprises and individuals;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the Board finds that:

The proposed regulation to reduce GHG emissions from heavy-duty diesel trucks meets the statutory requirements for a Discrete Early Action Measure under section 38560.5 of the Health and Safety Code and also satisfies the requirements of section 38560 of the Health and Safety Code;

The proposed regulation was developed in an open public process, in consultation with affected parties through numerous public workshops, individual meetings, and other outreach efforts;

The proposed regulation was developed using the best available economic and scientific information and will achieve the maximum technologically feasible and cost-effective GHG emission reductions from heavy-duty trucks, and encourage early compliance with the proposed requirements;

The GHG emission reductions resulting from the implementation of the proposed regulation are expected to be real, permanent, quantifiable, verifiable, and enforceable by ARB, and the proposed regulation complements, and does not interfere with other air quality efforts;

The proposed regulation minimizes the administrative burden of implementing and complying with this regulation;

Compliance with the proposed regulation will not disproportionately impact low-income communities since long-haul heavy-duty vehicles operate throughout California and reduced GHG emissions and oxides of nitrogen emissions are benefits from the regulation that will be shared by low-income communities;

There exist adequate data to support the adoption of the proposed regulation and to establish that the regulation will help accomplish the objectives of AB 32;

The existing federal SmartWay Partnership Program provides the framework for the certification of fuel-efficient, long-haul, heavy-duty tractors and trailers

and the verification of fuel-efficiency improving technologies for retrofitting such vehicles;

SmartWay technologies are currently available and used on a small number of heavy-duty tractors and trailers, and have been demonstrated to reduce vehicle fuel usage, and thereby, reduce GHG emissions;

Requiring on-road heavy-duty tractors and trailers operating on California highways to be equipped with SmartWay technologies will result in substantial reductions in GHG emissions;

Implementation of the proposed regulation beginning January 1, 2010, is feasible for box-type trailers and the heavy-duty tractors that pull them. The proposed requirements will apply to the owner, driver, motor carrier, California-based broker, and California-based shipper operating non-exempt vehicles on highways in California;

The proposed regulation is economical to the consumer over the life-cycle of the vehicle; the fuel-efficiency technologies will result in operating cost savings that exceed the initial capital cost, producing a net savings to the owner over the life-cycle of the vehicle;

A state guarantee loan program will be available to help finance compliance with these proposed requirements.

No reasonable alternative considered, or that has otherwise been identified and brought to the attention of the ARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons and businesses than the proposed regulation;

WHEREAS, pursuant to the requirements of the California Environmental Quality Act and the Board's regulations, the Board further finds that the proposed regulation will not result in any significant adverse impacts on the environment;

WHEREAS, the Board further finds that:

As new fuel-efficient heavy-duty tractors and trailers are introduced and in-use heavy-duty tractors and trailers are retrofitted with fuel-efficient technologies, the proposed regulation is estimated to result in the reduction of approximately 1 million metric tons of carbon dioxide equivalent emissions statewide and approximately 6.7 million metric tons of carbon dioxide equivalent emissions nationwide in 2020. The total cumulative GHG emission reductions from 2010 to 2020 are estimated to be approximately 7.8 million metric tons of carbon dioxide equivalent emissions in California and

approximately 52.1 million metric tons of carbon dioxide equivalent emissions nationwide, as described in the Staff Report on the regulation;

The proposed regulation is estimated to result in statewide reductions of oxides of nitrogen emissions of approximately 4.3 tons per day in 2014 and 1.4 tons per day in 2020. These reductions will help with progress toward attainment of National and State Ambient Air Quality Standards for particulate matter and ozone.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts new sections 95300, 95301, 95302, 95303, 95304, 95305, 95306, 95307, 95308, 95309, 95310, 95311, and 95312 in title 17, California Code of Regulations, as set forth in Attachment A hereto, with the modifications set forth in Attachment B.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to incorporate into the approved regulation the modifications set forth in Attachment B, with such other conforming modifications as may be appropriate, and then to adopt the new regulation after making the modified regulatory language available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modifications as may be submitted during this period, shall make further modifications as may be appropriate in light of the comments received, and shall present the regulation to the Board for further consideration if the Executive Officer determines that this is warranted.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to modify the regulatory language or take other appropriate steps to ensure the requirements specified in section 95303(a)(1) for certification of tractors will take effect only if the U.S. EPA modifies the existing U.S. EPA Certified SmartWay Tractor certification requirements to establish new performance-based test requirements that will provide for comparable greenhouse gas reductions for similar certified SmartWay tractors from different manufacturers, and also directs the Executive Officer to inform the Board by the end of 2009 whether such standards were adopted by U.S. EPA and available options if such standards have not been adopted.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations adopted herein will not cause California motor vehicle emission standards, in the aggregate, to be less protective of the public health and welfare than applicable federal standards.

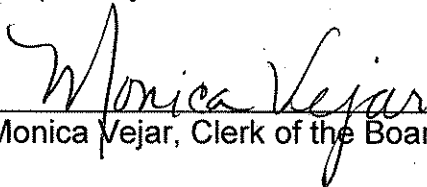
BE IT FURTHER RESOLVED that the Board hereby finds that separate California emission standards are necessary to meet compelling and extraordinary conditions.

BE IT FURTHER RESOLVED that the Board finds that the California emission standards as adopted herein will not cause the California requirements to be inconsistent with section 202(a) of the Clean Air Act and raise no new issues

affecting previous waiver determinations of the Administrator of the U.S. EPA pursuant to section 209(b) of the Clean Air Act.

BE IT FURTHER RESOLVED that, to the extent such action is necessary, the Executive Officer shall, upon adoption, forward the regulation to the U.S. EPA with a request for a waiver or confirmation that the regulations are within the scope of an existing waiver of federal preemption pursuant to section 209(b) of the federal Clean Air Act, as appropriate.

I hereby certify that the above is a true and correct copy of Resolution 08-44, as adopted by the Air Resources Board.



Monica Vejar, Clerk of the Board

Resolution 08-44

December 11, 2008

Identification of Attachments to the Resolution

- Attachment A: Proposed Regulation Order, as set forth in Appendix A of the Staff Report: Initial Statement of Reasons, as published and posted October 24, 2008.
- Attachment B: Staff's Suggested Modifications to the Proposed Regulation Order, presented at the December 11, 2008 Board hearing.

Attachment B to Resolution 08-44

**Staff's Suggested Modifications to the
Originally Proposed Regulation Order
Released October 24, 2008**

**REGULATION TO REDUCE GREENHOUSE GAS EMISSIONS
FROM HEAVY-DUTY VEHICLES**

Note: This document contains the staff's suggested modifications to the originally proposed regulation order set forth in Appendix A of the Staff Report: Initial Statement of Reasons for Proposed Rulemaking, which was released to the public on October 24, 2008. The originally proposed regulatory language is indicated in plain type. The suggested modifications are shown in underline to indicate proposed additions and ~~strikethrough~~ to indicate proposed deletions. All proposed modifications will be made available to the public for a comment period of at least fifteen days before the Air Resources Board (ARB) takes final action to adopt the proposed regulation.

Adopt new Subarticle 1, sections 95300 to ~~95312~~, 95311, title 17, California Code of Regulations, to read as follows:

Subarticle 1: Heavy Duty Vehicle Greenhouse Gas Emission Reduction Measure

95300 Purpose.

The purpose of this subarticle is to reduce greenhouse gas emissions from heavy-duty (HD) tractors and 53-foot or longer box-type semitrailers (trailers) that transport freight on California highways.

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

95301. Applicability.

- (a) This subarticle applies to owners and drivers of the following equipment when driven on California highways, as well as motor carriers, California-based brokers, and California-based shippers that use, or caused to be used, the following equipment on California highways:
- (1) HD tractors that pull 53-foot or longer box-type trailers; and

(2) 53-foot or longer box-type trailers that are pulled by HD tractors.

(b) The requirements in this subarticle do not apply to the following vehicles:

(1) drop-frame trailers;

(2) chassis trailers;

(3) curtain-side trailers;

(4) livestock trailers;

(5) refuse trailers;

~~(4)-(6)~~ box-type trailers less than 53 feet in length;

~~(5)~~ ~~HD tractors or box-type trailers that have been granted an exemption under the provisions of section 95305, *Exemptions*:~~

~~(6)-(7)~~ authorized emergency vehicles; and

~~(7)-(8)~~ military tactical support vehicles.

(c) In accordance with the provisions of section 95305, *Exemptions*, specified requirements of this subarticle do not apply to short-haul tractors, short-haul trailers, custom extended sleeper cab tractors, and drayage tractors.

(d) Disclosure of Regulation Applicability: Any person residing in California selling a HD tractor or 53-foot or longer box-type trailer subject to this regulation must provide the following disclosure in writing to the buyer on the bill of sale, "A heavy-duty tractor and 53-foot or longer box-type trailer operated in California may be subject to the California Air Resources Board Heavy Duty Vehicle Greenhouse Gas Emission Reduction Measure. It therefore could be required to use low-rolling resistance tires and meet aerodynamic equipment requirements to reduce greenhouse gas emissions. For more information, please visit the California Air Resources Board website at <http://www.arb.ca.gov/cc/hdghg/hdghg.htm>."

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

95302. *Definitions.*

(a) The following definitions apply to this subarticle:

- (1) *“Aerodynamic technologies”* means components designed to reduce wind resistance on the tractor or trailer resulting in improved overall tractor fuel economy and reduced carbon dioxide emissions. There are two types of aerodynamic technologies: fairings and flow control devices.
- (2) *“Authorized emergency vehicle”* means a vehicle as defined in Vehicle Code section 165.
- (3) *“Box-type trailer”* means a dry-van trailer or refrigerated-van trailer that is not a drop-frame trailer.
- (4) *“Broker”* means a person who functions as an intermediary between two or more shippers and receivers, dispatching vehicles for the pick-up and delivery of freight, but is not a motor carrier or tractor owner or trailer owner.
- (5) *“Cab side extender”* means a flow control device placed vertically on the rear side of the tractor that fans out slightly and reduces the space between the tractor and trailer.
- (6) *“Chassis trailer”* means a trailer composed of a simple chassis for the mounting of a containerized load.
- (7) *“Container”* means a simple, enclosed box of standardized sizes, used for intermodal transport.
- (8) *“Curtain-side trailer”* means a flatbed trailer with tarp sides that can be loaded from the sides, top, or rear.
- (9) *“Custom extended sleeper cab tractor”* means a tractor installed with a custom-built sleeper cab that extends at least 80 inches beyond the rear of the cab as produced by the original equipment manufacturer.
- ~~(9)~~ ~~(10)~~ *“Dispatch”* means to contact vehicle owners, coordinate delivery, pickup, and drop-off schedules of such vehicles; and monitor the delivery of freight from such vehicles.
- ~~(10)~~ ~~(11)~~ *“Dispatch driver”* means the driver of a HD tractor that has been dispatched by a motor carrier or broker.
- ~~(11)~~ ~~(12)~~ *“Drayage tractor”* means any in-use on-road tractor with a Gross Vehicle Weight Rating of 33,000 pounds or greater operating on or transgressing through port or intermodal rail yard property for the purpose of

loading, unloading or transporting cargo, such as containerized, bulk or break-bulk goods.

- ~~(12)~~(13) *“Driver”* means a person who physically operates a HD tractor.
- ~~(13)~~(14) *“Drop-frame trailer”* means an enclosed rectangular trailer with a lowered deck starting just behind the bed plate to create more cargo space.
- ~~(14)~~(15) *“Dry-van trailer”* means an enclosed rectangular non-climate controlled trailer.
- ~~(15)~~(16) *“Fairing”* means a structure with smoothly contoured solid surfaces that reduces the wind resistance of the objects they cover.
- ~~(16)~~(17) *“Flatbed Trailer”* means a trailer consisting of a completely open platform with no sides or railings.
- ~~(17)~~(18) *“Flow control device”* means ~~an object or~~ a design element that manipulates the air flow around an object by changing the air flow characteristics in order to reduce the pressure force exerted on the vehicle.
- ~~(18)~~(19) *“Front trailer fairing”* means a curved fairing that attaches to the front facing surface of a trailer that covers all or part of the trailer’s front facing surface.
- ~~(19)~~(20) *“Fuel tank fairing”* also known as a chassis skirt, means a fairing located at the base of the cab between the front wheel of the tractor and the forward-most rear wheel, covering the open space and streamlining the fuel tank.
- ~~(20)~~(21) *“Good operating condition”* means the condition of a HD tractor or box-type trailer that meets the applicable standards in section 95304 for continued aerodynamic efficiency.
- ~~(21)~~(22) *“Gross vehicle weight rating”* or *“GVWR”* means the GVWR as defined in Vehicle Code Section 350.
- ~~(22)~~(23) *“Heavy-duty tractor”* or *“HD tractor”* means a class 7 or class 8 motor vehicle designed to pull a semitrailer on a highway by means of a fifth wheel mounted over the rear axle(s).
- ~~(23)~~(24) *“Highway”* means a “highway” as defined in Vehicle Code section 360.
- ~~(24)~~(25) *“Integrated sleeper cab roof fairing”* means a fairing located on the roof of a sleeper-cab-equipped tractor that extends from the front windshield of

the tractor cab to the rear edge of the sleeper cab, with enclosed sides that line up with the sides of the sleeper cab.

~~(25)~~ (26) “Lessee” means the person registered as the owner of the tractor or trailer by the California Department of Motor Vehicles or its equivalent in another state, province, or country, or a “lessee” as defined in California Uniform Commercial Code, section 10103(a)(14) section 371 of the Vehicle Code.

(27) “Lessor” means a “lessor” as defined in California Uniform Commercial Code, section 10103(a)(16).

(28) “Livestock trailer” means a semitrailer designed to transport live animals.

~~(26)~~ (29) “Local haul base” means the location where a short-haul tractor is garaged and maintained, and the location from where a short-haul trailer is routinely dispatched.

~~(27)~~ (30) “Low-rolling-resistance tire” means a tire that is designed to improve fuel efficiency of a tractor pulling a trailer by minimizing its rolling resistance, which consists of the energy lost as heat within the rubber itself, as well as aerodynamic drag of the tire, and friction between the tire and the road and between the tire and the rim when the tire is rolling under load; rolling resistance is expressed as the energy consumed per unit distance as the tire rolls under load.

~~(28)~~ (31) “Military tactical support vehicle” means a “Military Tactical Support Vehicle” as defined in title 13, CCR, section 1905.

~~(29)~~ (32) “Motor carrier” means a person that contracts to pick up and deliver commercial freight, and hires tractor owners or employs drivers, who are dispatched to pick up and deliver commercial freight.

~~(30) “Owner” means any person except a bank or other financial lending institution that legally holds title (or its equivalent) to a HD tractor or trailer showing ownership of the tractor or trailer. For purposes of this subarticle, a lessee or lessor of a tractor or trailer is considered the owner of the tractor or trailer in accordance with the following criteria:~~

(33) “Owner” means one of the following:

(A) Except as provided in (a)(33)(B), the person registered as the owner of the tractor or trailer by the California Department of Motor Vehicles, or its equivalent in another state, province, or country.

(B) For a leased tractor or trailer, both the lessor and the lessee of the vehicle.

~~(A) The lessee of a tractor or trailer is considered the owner if the following conditions are met:~~

- ~~1. the lessee has leased the tractor or trailer for a period of at least one year prior to the effective date of this subarticle, or~~
- ~~2. the lessee has leased the vehicle for a period of one year or more after the effective date of this subarticle, and the written lease agreement or amendment to the agreement specifically identifies the lessee as the owner.~~

~~(B) The lessor of a tractor or trailer is considered the owner if the following conditions are met:~~

- ~~1. neither of the conditions listed in subsection (a)(30)(A) are met, or~~
- ~~2. a written agreement between the lessee and lessor prohibits the lessee from modifying the leased or rented vehicle to comply with this subarticle.~~

~~(31)~~ (34) *“Person”* means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

~~(32)~~ (35) *“Rear trailer fairing”* means a fairing that attaches to the perimeter outer edges of the trailer’s rear-facing surface to provide a continuous surface for the air passing over the side and top surfaces of the trailer.

~~(33)~~ *“Refrigerated van trailer”* means a trailer van that has a refrigeration or heating unit built into the trailer to maintain precise temperatures and is used to haul frozen food, fresh produce, hot or warm food, and other perishable items.

~~(34)~~ (36) *“Receiver”* means a commercial operation to which freight will be or has been delivered that is intended for commercial, not private use. This may include, but is not limited to, owners of freight distribution centers, and temporary freight storage facilities.

(37) *“Refrigerated-van trailer”* means a rectangular trailer van that has a refrigeration or heating unit built into the trailer to maintain precise temperatures and is used to haul frozen food, fresh produce, hot or warm food, and other perishable items.

- ~~(38)~~ “Refuse Trailer” means a trailer that is used to haul solid waste material. Solid waste includes garbage, construction debris, commercial refuse, and other discarded materials.
- ~~(39)~~ “Retired (trailer)” means a trailer that no longer performs long-haul operation on California highways.
- ~~(35)~~~~(40)~~ “Semitrailer” means a “Semitrailer” as defined in section 550 of the Vehicle Code.
- ~~(36)~~~~(41)~~ “Shipper” means a person that has possession of freight prior to its transportation. This may include, but is not limited to, owners of freight distribution centers, and temporary freight storage facilities.
- ~~(37)~~ “Sleeper cab” means a HD tractor body that has a compartment located behind the driving compartment that contains a bed.
- ~~(38)~~~~(42)~~ “Short-haul tractor” means a HD tractor that either travels less than 50,000 miles in a calendar year, or travels exclusively within a 100 mile radius of its local haul base.
- ~~(39)~~~~(43)~~ “Short-haul trailer” means a 53-foot or longer box-type trailer that travels exclusively within a 100 mile radius of its local haul base.
- ~~(44)~~ “Sleeper cab” means a HD tractor body that has a compartment located behind the driving compartment that contains a bed.
- ~~(40)~~~~(45)~~ “Tractor” means a “Truck Tractor” as defined in section 655 of the Vehicle Code.
- ~~(41)~~~~(46)~~ “Trailer side skirt” means a fairing that extends down from the bottom of the trailer to cover part of the open space between the tractor and the rear wheels.
- ~~(42)~~~~(47)~~ “Transport refrigeration unit” or “TRU” means a refrigeration system powered by an integral internal combustion engine designed to control the environment of temperature sensitive products that are transported in trucks and refrigerated trailers. TRUs may be capable of both cooling and heating.
- ~~(43)~~ “U.S. EPA Approved SmartWay Technology” or “U.S. EPA Approved SmartWay Technologies” means one or more aerodynamic technologies or low-rolling resistance tire models that has been identified by the U.S. EPA as meeting the technical specifications and requirements of the U.S. EPA SmartWay Transport Partnership Program.

~~(44)~~ (48) *“U.S. EPA Certified SmartWay Tractor”* means a tractor that has been certified by the U.S. EPA to meet the technical specifications and requirements of the U.S. EPA SmartWay Transport Partnership Program.

~~(45)~~ (49) *“U.S. EPA Certified SmartWay Trailer”* means a 53-foot or longer box-type trailer that has been certified by the U.S. EPA to meet the technical specifications and requirements of the U.S. EPA SmartWay Transport Partnership Program.

~~(46)~~ (50) *“U.S. EPA SmartWay Partnership Program”* means the U.S. EPA’s voluntary program that is a collaboration between the U.S. EPA and the transportation industry to improve energy efficiency, reduce greenhouse gas and air pollutant emissions, and improve energy security. This program establishes ~~requirements for improving~~ incentives for improving freight movement efficiency and ~~for improving~~ the fuel efficiency of freight moving equipment. Information on the U.S. EPA SmartWay Partnership Program is available through the U.S. EPA Office of Transportation and Air Quality (OTAQ), USEPA Headquarters, 1200 Pennsylvania Avenue, N.W, Washington, DC 20460; and at the U.S. EPA SmartWay website at <http://www.epa.gov/smartway/>.

(51) “U.S. EPA Verified SmartWay Technology” or “U.S. EPA Verified SmartWay Technologies” means one or more aerodynamic technologies or low-rolling resistance tire models that has been identified by the U.S. EPA as meeting the technical specifications and requirements of the U.S. EPA SmartWay Transport Partnership Program.

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

95303 *Requirements and Compliance Deadlines.*

(a) Tractor Requirements

- (1) Beginning January 1, 2010, no 2011 or subsequent model year sleeper-cab HD tractor pulling a 53-foot or longer box-type trailer shall operate on a highway within California unless such tractor is a U.S. EPA Certified SmartWay Tractor.
- (2) Beginning January 1, 2010, no 2011 or subsequent model year HD tractor, including but not limited to sleeper-cab HD tractors, pulling a 53-foot or longer box-type trailer shall operate on a highway within California unless such tractor’s tires are U.S. EPA ~~Approved~~ Verified SmartWay Technologies.

- (3) Beginning January 1, 2012, no 2010 or previous model year HD tractor, regardless of model year, pulling a 53-foot or longer box-type trailer shall operate on a highway within California unless such tractor's tires are U.S. EPA ~~Approved~~Verified SmartWay Technologies.

(b) Trailer Requirements

(1) 2011 and Subsequent Model Year Dry-Van Trailer Requirements

Beginning January 1, 2010, no 2011 or subsequent model-year 53-foot or longer dry-van trailer shall travel on a highway within California unless such trailer is either:

- (A) a U.S. EPA Certified SmartWay Trailer, or,
- (B) equipped with one of the following two combinations of tires and aerodynamic technologies, installed in accordance with manufacturer's instructions:
1. tires that are U.S. EPA ~~Approved~~Verified SmartWay Technologies, and trailer side skirts that are U.S. EPA ~~Approved~~Verified SmartWay Technologies, and either a front trailer fairing that is a U.S. EPA ~~Approved~~Verified SmartWay Technology or a rear trailer fairing that is a U.S. EPA ~~Approved~~Verified SmartWay Technology for dry-van trailers ; or
 2. tires that are U.S. EPA ~~Approved~~Verified SmartWay Technologies, and any combination of dry-van trailer aerodynamic technologies that has been demonstrated to the U.S. EPA to meet or exceed a 5 percent fuel savings in accordance with the requirements defined by the U.S. EPA SmartWay Partnership Program.

(2) 2011 and Subsequent Model Year Refrigerated-Van Trailer Requirements

Beginning January 1, 2010, no 2011 or subsequent model year 53-foot or longer refrigerated-van trailer shall travel on a highway within California unless such trailer is either:

- (A) a U.S. EPA Certified SmartWay Trailer, or,
- (B) equipped with one of the following two combinations of tires and aerodynamic technologies, installed in accordance with manufacturer's instructions:

1. tires that are U.S. EPA ~~Approved~~Verified SmartWay Technologies, and trailer side skirts that are U.S. EPA ~~Approved~~Verified SmartWay Technologies for dry-van trailers, or
 2. tires that are U.S. EPA ~~Approved~~Verified SmartWay Technologies, and any combination of dry-van trailer aerodynamic technologies that has been demonstrated to the U.S. EPA to meet or exceed a 4 percent fuel savings in accordance with the requirements defined by the U.S. EPA SmartWay Partnership Program.
- (3) 2010 or Previous Model Year Dry-Van and Refrigerated-Van Trailer Requirements
- (A) In accordance with the compliance deadlines defined in subsection (b)(3)(B), a 2010 or previous model year 53-foot or longer box-type trailer may not travel on a highway within California unless such trailer is either a dry-van trailer that meets the requirements of subsections (b)(1)(A) or (b)(1)(B) or a refrigerated-van trailer that meets the requirements of subsections (b)(2)(A) or (b)(2)(B).—These requirements must be met by January 1, 2013, or:
 - (B) Compliance deadlines: A 2010 or previous model year 53-foot or longer box-type trailer must meet the requirements defined in subsection (b)(3)(A) by the following applicable dates:
 1. For a dry-van trailer or refrigerated-van trailer not identified in subsection (b)(3)(B)2: before January 1, 2013, or by the applicable compliance dates in section 95307, *Optional Trailer Fleet Compliance Schedules*, if such trailer is included in the fleet of trailers participating in, and remains eligible to participate in an optional trailer fleet compliance schedule.
 2. For a refrigerated-van trailer that is a model year 2003 through 2008 trailer equipped with 2003 or subsequent model year TRU: either by
 - a. December 31, 2017 for a 2003 or 2004 model year trailer; or
 - b. December 31, 2018 for a 2005 or 2006 model year trailer; or
 - c. December 31, 2019 for a 2007 or 2008 model year trailer; or
 - d. 4.—by the applicable compliance dates in section 95307, *Optional Trailer Fleet Compliance ScheduleSchedules*, if such trailer is included in the fleet of trailers participating in the ~~*Optional Trailer Fleet Compliance Schedule*~~; or, and remains eligible to participate in, an optional trailer fleet compliance schedule.

~~2. by the applicable compliance dates in section 95308, *Refrigerated Fleet Compliance Provision*, if such trailer is included in the fleet of refrigerated van trailers participating in the *Refrigerated Fleet Compliance Provision*~~

(c) Requirements for Drivers

- (1) A driver cannot operate a HD tractor to pull a 53-foot or longer box-type trailer on a highway in California unless both the tractor and the trailer
 - (A) comply with the applicable requirements and compliance deadlines defined in subsections (a) and (b), and
 - (B) are in good operating condition as defined in section 95304.
- (2) A driver must, upon demand, provide the following information if available to authorized enforcement personnel identified in section 95309:
 - (A) driver's license;
 - (B) vehicle odometer reading, if applicable;
 - (C) tractor registration;
 - (D) trailer registration;
 - (E) origin of freight being transported;
 - (F) destination of freight being transported;
 - (G) if dispatched by a motor carrier, the motor carrier information set forth in subsection (g)(1)(B);
 - (H) if dispatched by a broker, the broker information set forth in subsection (f)(1)(B);
- (3) A driver shall not operate a HD tractor to pull a 53-foot or longer box-type trailer on a highway in California if the trailer has aerodynamic technologies that are not deployed or not in their operational configuration.

(d) Requirements for Owners of HD Tractors

- (1) An owner of a HD tractor cannot use or authorize the use of a HD tractor to pull a 53-foot or longer box-type trailer on a highway in California unless both the HD tractor and the box-type trailer:

(A) comply with the applicable requirements and compliance deadlines set forth in subsections (a) and (b); and

(B) are in good operating condition as defined in section 95304.

(e) Requirements for Owners of Box-Type Trailers

(1) An owner of a 53-foot or longer box-type trailer must ensure that the 53-foot or longer box-type trailer will not be pulled by a HD tractor on a highway in California unless the 53-foot or longer box-type trailer:

(A) complies with the requirements and compliance deadlines set forth in subsection (b);

(B) is in good operating condition as defined in section 95304.

(2) An owner of one or more 2010 or previous model year 53-foot or longer box-type trailers that are subject to the requirements of subsection (b)(3) may elect to follow an alternative compliance schedule, if applicable. Owners that choose to follow an alternative compliance schedule must meet the requirements of section 95307, *Optional Trailer Fleet Compliance Schedules*.

~~(3) An owner of one or more 2010 or previous model year 53-foot or longer box-type trailers that are subject to the requirements of subsection (b)(3) may elect to follow the refrigerated-van trailer provision, if applicable. Owners that follow the refrigerated-van trailer compliance schedule must meet the requirements of section 95308, *Refrigerated Fleet Compliance Provision*.~~

(f) Requirements for California-based Brokers

(1) A California-based broker must:

(A) only dispatch HD tractors and 53-foot or longer box-type trailers that comply with the operating requirements and compliance deadlines set forth in subsections (a) and (b);

(B) provide the following information to the ~~dispatch~~dispatched driver :

1. broker's business name
2. broker's street address, state, zip code
3. broker contact person's name

4. broker contact person's business phone number

(g) Requirements for Motor Carriers

(1) A motor carrier must:

(A) only dispatch HD tractors and 53-foot or longer box-type trailers that comply with the operating requirements and compliance deadlines set forth in subsections (a) and (b);

(B) provide the following information to the ~~dispatch~~dispatched driver :

1. motor carrier's business name
2. motor carrier's street address, state, zip code
3. motor carrier contact person's name
4. motor carrier contact person's business phone number

(h) Requirements for California-~~Based~~based Shippers

(A) A California-based shipper must not ship freight in a 53-foot or longer box-type trailer pulled by a HD tractor on a California highway unless the HD tractor and the 53-foot or longer box-type trailer comply with the operating requirements and compliance deadlines set forth in subsections (a) and (b).

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

95304 Good Operating Condition Requirements.

(a) Good Operating Condition Criteria for U.S. EPA Certified SmartWay Tractor Aerodynamic Technologies.

(1) An aerodynamic mirror, a cab side extender, a fuel tank fairing, and an integrated sleeper cab roof fairing on a U.S. EPA Certified SmartWay Tractor must meet the following criteria:

(A) Each must be installed in accordance with manufacturer's specifications.

- (B) Each must be securely fastened to the tractor.
 - (C) Each must not be used if it is damaged to such an extent as to compromise its aerodynamic effectiveness.
- (b) Good Operating Condition Criteria for U.S. EPA Certified SmartWay Trailer Aerodynamic Technologies
- (1) Aerodynamic technologies installed on a box-type trailer must meet the following criteria:
 - (A) The aerodynamic technologies must be installed in accordance with the manufacturer's specifications.
 - (B) The aerodynamic technologies must be securely fastened to the trailer.
 - (C) The aerodynamic technologies must not be used with missing sections.
 - (D) The aerodynamic technologies must not be used if damaged to such an extent as to compromise their aerodynamic effectiveness.
 - (E) The rear trailer aerodynamic technology must be capable of being folded back against the trailer sides or otherwise be readily compacted to allow normal functioning of doors.

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

95305 Exemptions.

- (a) A ~~short-haul~~ HD tractor may, pursuant to section 95306, *Short-Haul Tractor and Short-Haul Trailer Exemption Requirements*, be exempted from the requirements of section 95303 (a)(1), provided it either:
 - (1) Travels no more than 50,000 miles per year; or
 - (2) Operates only within a 100-mile radius of its local haul base.
- (b) A HD tractor may, pursuant to section 95306, *Short-Haul Tractor and Short-Haul Trailer Exemption Requirements*, be exempted from the requirements of sections 95303 (a)(2) and 95303 (a)(3) provided it travels no more than 50,000 miles per year.

(c) A custom extended sleeper cab tractor is exempt from the requirements set forth in section 95303(a)(1).

~~(b)~~ (d) A 53-foot or longer box-type trailer may, pursuant to section 95306, *Short-Haul Tractor and Short-Haul Trailer Exemption Requirements*, be exempted from the requirements of section 95303(b), provided it operates only within a 100 mile radius of its local haul base.

~~(e)~~ (e) A 53-foot or longer box-type trailer pulled by a short-haul tractor that has been exempted is exempt pursuant to section 95306, *Short-Haul Tractor and Short-Haul Trailer Exemption Requirements*, is itself exempt from the requirements of 95303(b) while it is being pulled by the registered short-haul tractor.

~~(d)~~ (f) A drayage tractor pulling a 53-foot or longer box-type trailer within 100 miles of the port or intermodal rail yard property of origin or destination and the trailer it pulls are exempt from sections 95303(a) and (b).

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

95306 *Short-Haul Tractor and Short-Haul Trailer Exemption Requirements*

(a) ~~Application Requirements: The~~ To obtain a short-haul exemption as provided in sections 95305 (a), (b), and (d), the owner of an HD tractor or the owner of a 53-foot or longer box-type trailer that wishes to obtain a short-haul exemption as provided in section 95305(a) or (b) must submit to the Executive Officer the information identified in subsections (b) through (g). ~~Applications will be reviewed by the Executive Officer as received. The Executive Officer may request additional information, or clarification of submitted information, during review of the application. Applicants will be notified of the status of their applications by letter from the Executive Officer no later than 30 days after receipt of their application. If approved, the exemption status will be effective upon the date of the approval letter. If denied, the reasons for denial will be identified, and the applicant can resubmit an amended application.~~

(b) Owner Contact Information:

(1) Short-haul tractor owner's name (if applicable)

(2) Short-haul trailer owner's name (if applicable)

(3) Name of owner's company (if applicable)

- (4) Corporate parent (if applicable)
 - (5) Motor carrier identification number
 - (6) IRP registration number (if applicable)
 - (7) Street address of owner or owner's company
 - (8) Telephone number of owner or owner's company
 - (9) Email address of owner or owner's company (if available)
 - (10) Company taxpayer identification number (if applicable)
- (c) Local Haul Base Information:
- (1) Local haul base contact's name
 - (2) Contact's title
 - (3) Street address of local haul base
 - (4) Telephone number of local haul base
- (d) Tractor Information. For each tractor to be exempted, the following information:
- (1) Type of exemption applied for:
 - (A) Limit annual miles traveled to 50,000; or
 - (B) Limit total area of operation to within a 100 mile radius from its local base.
 - (2) Tractor identification number (vehicle identification number (VIN))
 - (3) Tractor make
 - (4) Tractor model
 - (5) Tractor model year
 - (6) State of registration
 - (7) License plate number
 - (8) Odometer reading (if annual miles traveled is to be limited)

- (e) Trailer Information. For each trailer to be exempted, the following information:
- (1) Trailer type (dry van or refrigerated van)
 - (2) Trailer identification number
 - (3) Trailer make
 - (4) Trailer model
 - (5) Trailer model year
 - (6) State of registration
 - (7) License plate number
- (f) For trailers and for all tractors limited in operation to a 100-mile radius from their local haul base, a street map of the geographic area where tractors will be operating and the location (address) of the local haul base(s).
- (g) A letter signed and dated by the owner with the information required by subsections (b) through (f) and one of the following statements at the end of the application, above the applicant's signature and date:
- (1) For all trailers and for ~~truck~~tractors limited in operation to a 100-mile radius from their local haul base:

"I agree to strictly limit all use of this [or these] tractor[s] [or trailer[s]] to the area within a 100-mile radius of the local haul base identified in this ~~application if the exemption is approved by the Air Resources Board Executive Officer~~submittal. I understand that if the exemption is approved, operation of the equipment outside this area will be a violation of sections 95300-~~95312, 95311~~, title 17, California Code of Regulations, and know that I must submit an application for any extension of the exemption no more than 11 months after the date of the letter approving the exemption. I declare under penalty of perjury that the information provided in this application is true, accurate and complete."

- (2) For ~~trucks~~tractors that will be used no more than 50,000 miles per year:

"I agree to limit use of this [or these] tractor[s] to 50,000 or fewer miles per year if the exemption is approved by the Air Resources Board Executive Officer. I understand that if the exemption is approved, operation of the equipment more than 50,000 miles will

be a violation of sections 95300-95312, 95311, title 17, California Code of Regulations, and know that I must submit an application for any extension of the exemption no more than 11 months after the date of the letter approving the exemption. I declare under penalty of perjury that the information provided in this application is true, accurate and complete.”

- (h) An exemption approved For owners of trailers or tractors limited in operation to a 100-mile radius from their local haul base an exemption provided under this section will be in effect as long as the exempted trailers and tractors are in compliance with the short-haul exemption criteria. Owners are required to notify the Executive Officer if the information submitted in accordance with subsections (b) through (f) has changed, and to submit the updated information to the Executive Officer.
- (i) For owners of tractors limited in operation to 50,000 miles per year, an exemption provided under this section will be in effect for a period of one year from the date of the approval letter. To extend the exemption, an applicant must reapply for the extension owners must submit the current odometer readings for each exempt tractor at least one month prior to the expiration date of the exemption.
- (ii) The driver of an exempt short-haul HD tractor, or a HD tractor pulling an exempt short-haul trailer must, upon demand, provide the following information to authorized enforcement personnel identified in section ~~95309~~95308:
 - (1) Driver's license
 - (2) Odometer reading of tractor
 - (3) Tractor registration
 - (4) Origin of freight being transported
 - (5) Destination of freight being transported
 - (6) If dispatched by motor carrier, motor carrier information defined in section 95303(g)(1)(B).
 - (7) If dispatched by broker, broker information defined in section 95303(f)(1)(B).
 - (8) Trailer identification number
- (k) The driver of an exempt short-haul HD tractor must, upon request, allow authorized enforcement personnel to directly view the odometer of the HD tractor.

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

95307 *Optional Trailer Fleet Compliance Schedules.*

~~In lieu of meeting the January 1, 2013 compliance deadline set forth~~As specified in section 95303(b)(3), an owner of one or more 2010 or previous model year 53-foot or longer box-type trailers may bring such trailers into compliance in accordance with an applicable compliance schedule set forth below.

For the purposes of the optional trailer fleet compliance schedules in this section, bringing a trailer into “compliance” means retrofitting such trailer with the necessary tires and aerodynamic technologies to meet the applicable trailer requirements in sections 95303(b)(1) and 95303(b)(2) or retiring such trailer from California long-haul service. In addition, a “trailer” means a 53-foot or longer box-type trailer, and a ~~“nonconforming trailer”~~conforming trailer means a trailer that is ~~not~~either U.S. EPA SmartWay Certified ~~nor is it yet~~or equipped with the necessary technologies specified in sections 95303(b)(1)(B) or 95303(b)(2)(B), as applicable.

The two compliance schedules available are the large fleet compliance schedule for fleets of 21 or more trailers and the small fleet compliance schedule for fleets of 20 or fewer trailers. Fleets with 21 or more total trailers may not participate in the small fleet compliance schedule. However, fleets with 20 or fewer total trailers may participate in either the large fleet or small fleet compliance schedule.

To determine fleet size, a trailer owner must account for all 53-foot or longer box-type trailers (both dry-van and refrigerated-van trailers) within the fleet. A trailer owner must list all these trailers on the trailer fleet list, as defined in subsection (c)(2) to be eligible to participate in an optional trailer fleet compliance schedule. The trailer fleet list must be submitted within the compliance plan, as defined in subsection (a)(2) or (b)(2), as applicable, by the due date specified in the applicable compliance schedule. Only trailers listed on the trailer fleet list are eligible to be brought into compliance in accordance with an applicable compliance schedule. Except as provided in subsection (a)(3), a compliance plan revision may only be made with the approval of the Executive Officer when the Executive Officer determines that a company merger, acquisition, ~~or~~ split, or other changed circumstances affecting operations of the owner, necessitate revisions in the compliance plan. Executive Officer approval will not be granted to allow a new business to participate in a compliance schedule after the submission due date for the applicable compliance plan has passed.

~~Refrigerated-van trailers not brought into compliance in accordance with the refrigerated fleet compliance provision set forth in section 95308 may either be brought into compliance in accordance with an applicable large fleet or small fleet compliance schedule or before the January 1, 2013 compliance deadline.~~

Although a fleet’s participation in an optional trailer fleet compliance schedule does not require the Executive Officer’s specific approval, the Executive Officer may terminate a fleet’s participation in a compliance schedule if the fleet, or any tractor or trailer within the fleet, is found in violation of this regulation. Should the Executive Officer terminate a fleet’s participation in a compliance schedule, the owner must bring all trailers into compliance within 90 days or by December 31, 2012, whichever is later, but in no case later than December 31 of the final compliance year of the applicable compliance schedule.

The Executive Officer may make information provided pursuant to an optional trailer fleet compliance schedule available to the public for the purpose of helping determine the compliance status of a trailer.

(a) Large Fleet Compliance Schedule

- (1) Minimum fleet compliance thresholds: A trailer owner participating in the large fleet compliance schedule must ensure that the percentage of compliant trailers on the compliance base list, as defined in subsection (c)(3), is equal to or greater than:
 - (A) 5 percent by December 31, 2010,
 - (B) 15 percent by December 31, 2011,
 - (C) 30 percent by December 31, 2012,
 - (D) 50 percent by December 31, 2013,
 - (E) 75 percent by December 31, 2014, and
 - (F) 100 percent by December 31, 2015.

**Table 1: Minimum Fleet Compliance Thresholds
for the
Large Fleet Compliance Schedule**

Compliance Year (Y)	Minimum Fleet Compliance Threshold (P _Y)
2010	5%
2011	15%
2012	30%
2013	50%
2014	75%
2015	100%

- (2) Large fleet compliance plan: To participate in the large fleet compliance schedule, a trailer owner must provide the following information to the

Executive Officer, in a document entitled "Large Fleet Compliance Plan," by July 1, 2010. This document must include the following:

- (A) Statement of intent, in accordance with subsection (c)(1).
- (B) Trailer fleet list, in accordance with subsection (c)(2).
- (C) Copy of registration for each trailer listed on the trailer fleet list.
- (D) Large fleet compliance base number, calculated in accordance with subsection (d)(1).
- (E) Compliance base list, in accordance with subsection (c)(3).
- (F) Annual compliance number for each compliance year, calculated in accordance with subsection (d)(5).
- (G) Annual compliance commitment list for each compliance year, in accordance with subsection (c)(4).
- (H) Early compliance option reporting, if applicable: If a trailer owner elects to delay trailer retrofits and retirements in accordance with subsection (a)(4) , *Early compliance option*, such owner must submit the following trailer information within the compliance plan:
 - 1. Early compliance trailer number: The number of trailers that are in compliance conformance by December 31, 2009 and are used to delay the retrofit or retirement of delayed compliance trailers, as defined in subsection (a)(4).
 - 2. Early compliance trailer list: A trailer owner participating in the early compliance option must identify on the trailer fleet list all early compliance trailers.
 - 3. Evidentiary documentation for early compliance trailers: In order for the Executive Officer to recognize early compliance trailers, a trailer owner must submit proper evidentiary documentation, such as purchase receipts, demonstrating that, by December 31, 2009, such trailers were already in compliance conformance. In lieu of purchase receipts, other documentation may also be acceptable as determined by the Executive Officer.
 - 4. Delayed compliance trailer number, calculated in accordance with subsection (d)(3).

5. Delayed compliance trailer list: A trailer owner participating in the early compliance option must identify on the trailer fleet list all delayed compliance trailers.
- (3) Large fleet compliance plan revision: A trailer owner may make certain revisions to retrofit and retirement commitments scheduled for compliance years four, five, and six, by submitting a document titled, "Large Fleet Compliance Plan Revision," by July 1, 2013. By submitting this document, a trailer owner may re-designate trailer retrofit and retirement commitments within compliance years four, five, and six, so long as the number of trailers that are brought into compliance each compliance year does not change.
 - (4) Early compliance option: Under the early compliance option, a trailer owner may delay the retrofit or retirement of 1.5 nonconforming trailers until 2016 for every one trailer that is in compliance by December 31, 2009. For the purposes of the early compliance option, an "early compliance trailer" means a trailer that is in compliance ~~compliance~~ conformance by December 31, 2009 and for which the fleet receives credit towards delaying the retrofit or retirement of other trailers until 2016. In addition, a "delayed compliance trailer" means a trailer for which compliance will be delayed until 2016.
 - (A) Maximum allowable delayed compliance trailers: A trailer owner participating in the early compliance option may not delay the compliance of more trailers than the equivalent of 30 percent of the sum of all trailers within the compliance base and the total number of early compliance trailers. For verification purposes, the maximum allowable delayed compliance trailer number may be calculated in accordance with subsection (d)(4).
 - (B) A trailer owner must bring all delayed compliance trailers into compliance by December 31, 2016.
 - (C) Early compliance option report: To participate in the early compliance option, a trailer owner must submit all information required by subsection (a)(2)(H), *Early compliance option report*, by July 1, 2010, in the large fleet compliance plan.
- (b) Small fleet compliance schedule
- (1) Minimum fleet compliance thresholds: A trailer owner participating in the small fleet compliance schedule must ensure that the percentage of compliant trailers on the compliance base list, as defined in subsection (c)(3), is equal to or greater than:
 - (A) 25 percent by December 31, 2013,

- (B) 50 percent by December 31, 2014,
- (C) 75 percent by December 31, 2015, and
- (D) 100 percent by December 31, 2016.

Table 2: Minimum Fleet Compliance Thresholds for the Small Fleet Compliance Schedule

Compliance Year (Y)	Minimum Fleet Compliance Threshold (P _Y)
2013	25%
2014	50%
2015	75%
2016	100%

- (2) Small fleet compliance plan: To participate in the small fleet compliance schedule, a trailer owner must provide the following information to the Executive Officer, in a document entitled “Small Fleet Compliance Plan,” by July 1, 2012. This document must include the following:
 - (A) Statement of intent, in accordance with subsection (c)(1).
 - (B) Trailer fleet list, in accordance with subsection (c)(2).
 - (C) Copy of registration for each trailer listed on the trailer fleet list.
 - (D) Small fleet compliance base number, calculated in accordance with subsection (d)(2).
 - (E) Compliance base list, in accordance with subsection (c)(3)
 - (F) Annual compliance number for each compliance year, calculated in accordance with subsection (d)(5).
 - (G) Annual compliance commitment list for each compliance year, in accordance with (c)(4).

(c) General Compliance Plan Components

- (1) Statement of intent: The statement of intent must be provided to the Executive Officer by the due date specified in the applicable compliance schedule. The statement of intent must include the following:
 - (A) A statement indicating that the trailer owner elects to participate in an optional trailer fleet compliance schedule.

- (B) A statement identifying the compliance schedule in which the trailer owner elects to participate.
 - (C) For trailer owners electing to participate in the small fleet compliance schedule, a statement affirming that such owner's trailer fleet contains 20 or fewer 53-foot or longer box-type trailers.
 - (D) A statement affirming that, except for exempted trailers and refrigerated trailers to be brought into compliance in accordance with ~~the refrigerated fleet compliance provision, section 95303(b)(3)(B)2.~~, the trailer owner will bring all nonconforming trailers into compliance in accordance with the applicable compliance schedule.
 - (E) A statement affirming that the trailer owner understands that participation in an applicable compliance schedule may be terminated by the Executive Officer should any vehicles be found in violation of this regulation.
 - (F) A statement affirming that the trailer owner understands that if participation in a compliance schedule is terminated by the Executive Officer, the owner must bring all affected trailers into compliance within 90 days or by December 31, 2012, whichever is later, but no later than December 31 of the final compliance year of the applicable compliance schedule.
 - (G) A statement affirming that the trailer owner understands that if participation in an applicable trailer fleet compliance schedule is withdrawn, such owner may not operate a nonconforming trailer on a California highway after December 31, 2012, except for refrigerated-van trailers that will be brought into compliance in accordance with ~~the refrigerated fleet compliance provision, section 95303(b)(3)(B)2.~~
 - (H) A statement affirming that the trailer owner agrees to allow the Executive Officer, or any person authorized by the Executive Officer, to conduct periodic audits of vehicles and records to ensure compliance with the applicable compliance schedule, this regulation, and other air quality regulations.
 - (I) A signature of the trailer owner or a corporate official affirming that all information contained within the compliance plan, including information contained within the statement of intent and the trailer fleet list, is true and correct.
- (2) Trailer fleet list: The trailer fleet list must be provided to the Executive Officer by the due date specified in the applicable compliance schedule. Except upon specific Executive Officer approval, the trailer owner may not

change the number or identity of trailers included on the trailer fleet list once the submission due date for the applicable compliance plan has passed. The trailer fleet list must include the following:

- (A) Owner's name
- (B) Name of company or agency
- (C) Corporate parent (if applicable)
- (D) Physical address
- (E) Mailing address
- (F) Physical address of location where records pertaining to the applicable compliance schedule will be maintained
- (G) Name of contact person
- (H) Telephone number
- (I) Email address (if available)
- (J) Company taxpayer identification number
- (K) List of all 2010 and previous model-year 53-foot or longer box-type trailers that operate in California, including compliant, nonconforming, and exempted trailers.

For each trailer listed, provide the following:

1. Trailer type (dry van or refrigerated van)
2. Trailer make
3. Trailer model
4. Trailer model year
5. License plate number
6. State of registration
7. Compliance status (compliant, nonconforming, or exempted)

For each refrigerated-van trailer listed, also provide the following:

8. Transport refrigeration unit make
9. Transport refrigeration unit model
10. Transport refrigeration unit model year
11. Transport refrigeration unit serial number
12. Transport refrigeration unit engine make
13. Transport refrigeration unit engine model
14. Transport refrigeration unit engine model year
15. Transport refrigeration unit engine serial number

(3) Compliance base list: The compliance base list is the subset of nonconforming trailers identified in the trailer fleet list, in accordance with subsection (c)(2)(K), that will be brought into compliance in accordance with the applicable compliance schedule. The compliance base list shall not include the following trailers:

- (A) Exempted trailers
- (B) Refrigerated-van trailers to be brought into compliance in accordance with the refrigerated fleet compliance provision
- (C) Early compliance trailers used to delay the retrofits and retirements of delayed compliance trailers, if applicable
- (D) Delayed compliance trailers, if applicable

Trailers that are in ~~compliance~~conformance by December 31, 2009 and not used to delay the retrofit or retirement of delayed compliance trailers may also be included on the compliance base list and used to meet minimum fleet compliance thresholds.

(4) Annual compliance commitment list: The compliance commitment list is the subset of trailers within the compliance base list that the owner commits to bring into compliance by December 31 of that compliance year. For each year's annual compliance commitment list, the trailer owner must list a sufficient number of trailers to meet or exceed the annual compliance number for that same year. On the annual compliance commitment list, the trailer owner must list all trailers by their license plate number and state of

registration, or by another method acceptable to the Executive Officer, which also allows for the identification of these trailers on the owner's trailer fleet list.

(d) Calculation Methodology

- (1) Large fleet compliance base number: The compliance base number for large fleets is the number of trailers that a trailer owner elects to bring into compliance in accordance with the large fleet compliance schedule.

$$N_B = N_T - N_{2016} - N_E - N_R - N_X \quad (\text{Equation 1})$$

"N_B" = Large fleet base number

"N_T" = Total number of trailers listed on the trailer fleet list

"N₂₀₁₆" = Delayed compliance trailer number, as determined in accordance with (d)(3), if applicable

"N_E" = Number of early compliance trailers, if applicable

"N_R" = Number of nonconforming refrigerated-van trailers that will be brought into compliance in accordance with ~~the refrigerated fleet compliance provision set forth~~ dates specified in section ~~95308, 95303~~ (b)(3)(B)2.a through (b)(3)(B)2.c, if applicable

"N_X" = Number of trailers with a compliance status of "exempted" on the trailer fleet list, if applicable

- (2) Small fleet compliance base number: The compliance base number for small fleets is the number of trailers that a trailer owner elects to bring into compliance in accordance with the small fleet compliance schedule.

$$N_B = N_T - N_R - N_X \quad (\text{Equation 2})$$

"N_B" = Small fleet base number

"N_T" = Total number of trailers listed on the trailer fleet list

"N_R" = Number of nonconforming refrigerated trailers that will be brought into compliance in accordance with ~~the refrigerated fleet compliance provision set forth~~ dates specified in section ~~95308, 95303~~ (b)(3)(B)2.a through (b)(3)(B)2.c, if applicable

"N_X" = Number of trailers with a compliance status of "exempted" on the trailer fleet list, if applicable

- (3) Delayed compliance trailer number: The delayed compliance trailer number is the number of trailers for which compliance may be delayed until 2016, pursuant to subsection (a)(4), *Early Compliance Option*.

$$N_{2016} = N_E \times 1.5 \quad (\text{Equation 4})$$

“ N_{2016} ” = Delayed compliance trailer number, if applicable. If N_{2016} is not a whole number, round down to the next whole number.

“ N_E ” = Number of early compliance trailers

- (4) Maximum allowable delayed compliance trailer number: The resultant number must be rounded down to the nearest whole trailer

$$N_{2016, \max} = (N_B + N_E) \times 0.30 \quad (\text{Equation 3})$$

“ $N_{2016, \max}$ ” = Maximum allowable delayed compliance trailer number. If $N_{2016, \max}$ is not a whole number, round down to the next whole number.

“ N_B ” = Large fleet base number, as determined in accordance with subsection (d)(1)

“ N_E ” = Number of early compliance trailers

- (5) Annual compliance number: The annual compliance number is the number of trailers that a trailer owner must bring into compliance by December 31 of a particular year to ensure that the percentage of compliant trailers within the compliance base meets or exceeds the minimum fleet compliance threshold for that year.

$$N_Y = (N_B \times P_Y/100) - N_{C, Y-1} \quad (\text{Equation 5})$$

“ N_Y ” = Annual compliance number for compliance year Y. If N_Y is not a whole number, round up to the next whole number if the fractional part is equal to or greater than 0.5, and round down if less than 0.5.

“ N_B ” = Large fleet or small fleet base number, as determined in accordance with subsection (d)(1) for large fleets or (d)(2) for small fleets

“ P_Y ” = Minimum fleet compliance threshold for compliance year Y, as defined in subsection (a)(1) for large fleets and (b)(1) for small fleets

“ $N_{C, Y-1}$ ” = Total number of trailers within the compliance base that would already be in compliance prior to January 1 of compliance year Y. This number does not include early compliance trailers for which a fleet has received credit towards delaying the compliance of other trailers, pursuant to subsection (a)(4), *Early Compliance Option*.

- (e) General requirements for all compliance schedules: To participate in an applicable trailer fleet compliance schedule, a trailer owner must comply with the following requirements.
- (1) The trailer owner must ensure that, by December 31 of each compliance year, the percentage of compliant trailers within the owner’s compliance base is equal to or greater than the applicable minimum fleet compliance threshold for that compliance year.
 - (2) The trailer owner must ensure that the number of trailers listed on each compliance year’s annual compliance commitment list is equal to or greater than the applicable annual compliance number for that compliance year.
 - (3) The trailer owner must bring into compliance all trailers listed in each compliance year’s annual compliance commitment list by December 31 of that compliance year.
 - (4) The trailer owner must allow ARB representatives, or any other authorized enforcement personnel, to conduct periodic audits of records and equipment to verify compliance with an applicable compliance schedule, the owner’s compliance plan, and other applicable air quality regulations.
 - (5) Should the Executive Officer terminate the trailer owner’s participation in a trailer fleet compliance schedule, such trailer owner must bring all trailers into compliance within 90 days of such termination or by December 31, 2012, whichever is later, but no later than December 31 of the final compliance year of the applicable compliance schedule.
 - (6) After December 31, 2012, except for eligible refrigerated-van trailers that the trailer owner elects to bring into compliance in accordance with ~~the refrigerated fleet compliance provision~~ section 95303(b)(3)(B)2. and exempted trailers, the trailer owner may not allow the operation of a nonconforming trailer on a California highway if such owner withdraws participation from an applicable trailer fleet compliance schedule.

- (7) The trailer owner must provide to the Executive Officer any documentation and information required by an applicable trailer fleet compliance schedule by the due date specified in such compliance schedule.
- (8) The trailer owner must ensure that all information and documentation provided to the Executive Officer is accurate and true.
- (9) The trailer owner must ensure that all required information and documentation arrives at ARB by applicable due dates. The Executive Officer will not be responsible for materials lost in transit.
- (10) If participating in the large fleet compliance schedule, the trailer owner must continue bringing trailers into compliance in accordance with the original compliance plan if a large fleet compliance plan revision is not submitted.
- (11) The trailer owner must maintain all documentation pertaining to an applicable compliance schedule at the location indicated on the trailer fleet list.
- (12) Upon the request of an ARB representative or other authorized enforcement personnel, the trailer owner must provide all information and documentation necessary to verify compliance with the applicable compliance schedule, such owner's compliance plan, and any other air quality regulation.
- (13) A trailer owner may not allow a nonconforming trailer that will be brought into compliance in accordance with an applicable trailer fleet compliance schedule to operate on a California highway after December 31, 2012 unless such trailer is listed on the owner's trailer fleet list and the owner remains eligible to participate in the trailer fleet compliance schedule.
- (14) A trailer owner who is participating, or has participated, in a trailer fleet compliance schedule may not allow a nonconforming trailer that will be brought into compliance in accordance with ~~the refrigerated fleet compliance provision~~ section 95303(b)(3)(B)2. to operate on a California highway after December 31, 2012 unless such trailer is listed on such owner's trailer fleet list.
- (15) The trailer owner may not allow the operation of a nonconforming trailer on a California Highway after December 31 of the compliance year in which the trailer was identified on the annual compliance commitment list.

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

95308-Refrigerated Fleet Compliance Provision Enforcement.

~~A trailer owner may bring 2003 through 2008 model-year 53-foot or longer refrigerated-van trailers equipped with 2003 and subsequent model-year TRUs into compliance in accordance with the refrigerated fleet compliance provision in lieu of meeting the January 1, 2013 compliance deadline set forth in section 95303(b)(3) or bringing such trailers into compliance in accordance with an applicable trailer fleet compliance schedule.~~

~~For the purposes of this subsection, bringing a trailer into “compliance” means retrofitting such trailer with the necessary technologies to meet the trailer requirements set forth in section 95303(b)(2) of this article or retiring such trailer from California service. In addition, a “trailer” means a 53-foot or longer box-type trailer, and a “nonconforming trailer” means a trailer that is not U.S. EPA SmartWay Certified nor is it yet equipped with the necessary technologies specified in section 95303(b)(2)(B).~~

~~If also participating in an optional trailer fleet compliance schedule, a trailer owner may only bring a refrigerated-van trailer into compliance in accordance with this provision if such trailer is included on the trailer fleet list, as submitted in the applicable compliance plan.~~

~~A nonconforming refrigerated-van trailer may not operate on a California Highway after December 31, 2012 unless such trailer is being brought into compliance under an applicable trailer fleet compliance schedule or has been reported in accordance with the refrigerated fleet compliance provision and is eligible to be brought into compliance in accordance with the refrigerated fleet compliance provision.~~

~~The Executive Officer may make information provided pursuant to the refrigerated fleet compliance provision available to the public for the purpose of helping determine the compliance status of a trailer.~~

~~(a) Refrigerated trailer compliance deadlines: A trailer owner electing to bring refrigerated-van trailers into compliance in accordance with the refrigerated fleet compliance provision must:~~

- ~~(1) Bring all 2003 and 2004 model year 53-foot or longer refrigerated-van trailers into compliance by December 31, 2017. A trailer owner subjected to this provision may not operate a nonconforming 2003 or 2004 model year refrigerated-van trailer on a California highway after December 31, 2017.~~

- (2) ~~Bring all 2005 and 2006 model year 53-foot or longer refrigerated-van trailers into compliance by December 31, 2018. A trailer owner subjected to this provision may not operate a nonconforming 2005 or 2006 model year refrigerated-van trailer on a California highway after December 31, 2018.~~
- (3) ~~Bring all 2007 and 2008 model year 53-foot or longer refrigerated-van trailers into compliance by December 31, 2019. A trailer owner subjected to this provision may not operate a nonconforming 2007 or 2008 model year refrigerated-van trailer on a California highway after December 31, 2019.~~

Table 3: Refrigerated Fleet Compliance Deadlines

Compliance Deadlines	Affected Trailer Model Years
December 31, 2017	2003, 2004
December 31, 2018	2005, 2006
December 31, 2019	2007, 2008

- (b) ~~Refrigerated fleet compliance report: To be eligible to bring trailers into compliance in accordance with the refrigerated fleet compliance provision, a trailer owner must provide the following information, in a document entitled "Refrigerated Fleet Compliance Report," by July 1, 2012. This document must include:~~
 - (1) ~~If participating in an optional trailer fleet compliance schedule, the applicable trailer fleet list, prepared in accordance with section 95307 (c)(2), including the identification of all trailers that the owner elects to bring into compliance in accordance with the refrigerated fleet compliance provision~~
 - (2) ~~If not participating in an optional trailer fleet compliance schedule, a refrigerated trailer fleet list, which must include the following information:~~
 - (A) ~~List of all trailers that the trailer owner will bring into compliance in accordance with the refrigerated fleet compliance provision.~~
 - (B) ~~Owner's name~~
 - (C) ~~Name of company or agency~~
 - (D) ~~Corporate parent (if applicable)~~
 - (E) ~~Physical address~~
 - (F) ~~Mailing address~~
 - (G) ~~Physical address of location where records pertaining to the applicable compliance schedule will be maintained~~

~~(H) Name of contact person~~

~~(I) Telephone number~~

~~(J) Email address (if available)~~

~~(K) Company taxpayer identification number~~

~~(L) For each trailer listed:~~

~~1. Trailer make~~

~~2. Trailer model~~

~~3. Trailer model year~~

~~4. License plate number~~

~~5. State of registration~~

~~6. Transport refrigeration unit make~~

~~7. Transport refrigeration unit model~~

~~8. Transport refrigeration unit model year~~

~~9. Transport refrigeration unit serial number~~

~~10. Transport refrigeration unit engine make~~

~~11. Transport refrigeration unit engine model~~

~~12. Transport refrigeration unit engine model year~~

~~13. Transport refrigeration unit engine serial number~~

~~(3) Copy of registration for all trailers that the owner will bring into compliance in accordance with the refrigerated fleet compliance provision.~~

~~(4) Statement of intent, which includes the following:~~

~~(A) A statement affirming that the owner elects to bring applicable trailers into compliance in accordance with the refrigerated fleet compliance schedule.~~

~~(B) A statement affirming that all trailers that the trailer owner elects to bring into compliance in accordance with the refrigerated fleet compliance provision are 2003 through 2008 model year 53-foot or longer refrigerated van trailers with 2003 and subsequent model year TRUs.~~

~~(C) A statement affirming that all affected trailers will be brought into compliance by the applicable compliance deadlines specified in subsection (a), Refrigerated trailer compliance deadlines.~~

~~(D) A signature of the trailer owner or a corporate official affirming that all information contained within the refrigerated fleet compliance report, including information contained within the statement of intent and the trailer fleet list, is true and correct.~~

~~(c) Other Requirements~~

~~(1) Only refrigerated van trailers equipped with a functional TRU are eligible to be brought into compliance in accordance with the refrigerated fleet compliance provision.~~

~~(2) For applicable refrigerated fleets that begin service in California after December 31, 2012, the refrigerated fleet compliance report must be submitted to the Executive Officer prior to operating any nonconforming 2003 through 2008 model year 53-foot or longer refrigerated van trailer equipped with 2003 and subsequent model-year TRUs on a California highway.~~

~~(3) If the trailer owner elects to begin participation in the refrigerated fleet compliance provision after December 31, 2016, such fleet must ensure that all trailers subjected to previous deadlines, as applicable, are in compliance.~~

~~(4) Notwithstanding any other requirements of the refrigerated fleet compliance provision, a trailer owner may not allow any nonconforming refrigerated van trailer subjected to this regulation to operate on a California highway after December 31, 2019.~~

Enforcement of this subarticle may be carried out by representatives authorized by the Executive Officer, peace officers as defined in California Penal Code, title 3, chapter 4.5, sections 830 et seq. and their respective law enforcement agencies; and authorized representatives of air pollution control or air quality management districts.

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

~~95309~~ *Enforcement.*

~~Enforcement of this subarticle may be carried out by authorized representatives of the ARB, peace officers as defined in California Penal Code, title 3, chapter 4.5, sections 830 et seq. and their respective law enforcement agencies; and authorized representatives of air pollution control or air quality management districts.~~

~~NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.~~

~~95310~~ 95309 *Right of Entry*

For purposes of inspecting HD tractors and box-type trailers covered in the subarticle, and inspecting or auditing the records of drivers, owners of trailers and tractors, motor carriers, California-based brokers, and California-based shippers to determine compliance with this subarticle, an agent or employee of ARB, upon presentation of proper credentials, has the right to enter any facility (with any necessary safety clearances) where HD tractors and box-type trailers are located or HD tractor and box-type trailer records, including dispatch records, are kept.

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

~~95311~~ 95310 *Penalties.*

As provided in Health and Safety Code section 38580, any person who violates any requirement of this subarticle is subject to the penalties set forth in Article 3 (commencing with section 42400) of Chapter 4 of Part 4, Division 26 of the Health and Safety Code. Failure to comply with any requirement of this subarticle shall constitute a single, separate violation for each day during any portion of which the person is not in compliance.

NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.

~~95312~~ 95311 *Severability.*

If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of the subarticle is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct,

and independent provision, and such holding shall not affect the validity of the remaining portions of this subarticle

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NOTE: Authority cited: Sections 39600, 39601, 38510, 38560, and 38560.5, Health and Safety Code. Reference: Sections 39600, 38560, 38560.5, and 38580, Health and Safety Code.