

TITLES 13 AND 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS TO THE REGULATION TO REDUCE EMISSIONS OF DIESEL PARTICULATE MATTER, OXIDES OF NITROGEN AND OTHER CRITERIA POLLUTANTS FROM IN-USE ON-ROAD DIESEL-FUELED VEHICLES, THE HEAVY-DUTY VEHICLE GREENHOUSE GAS EMISSION REDUCTION MEASURE, AND THE REGULATION TO CONTROL EMISSIONS FROM IN-USE ON-ROAD DIESEL-FUELED HEAVY-DUTY DRAYAGE TRUCKS AT PORTS AND INTERMODAL RAIL YARD FACILITIES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of amendments to the "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles (Truck and Bus regulation), title 13, California Code of Regulations (Cal. Code Regs.), section 2025; the Heavy-Duty Vehicle Greenhouse Gas (GHG) Emission Reduction Measure (Tractor-Trailer GHG regulation), title 17, Cal. Code Regs., sections 95301 to 95307, 95309, and 95311; and the regulation for In-Use On-Road Heavy-Duty Diesel-Fueled Drayage Trucks at Ports and Intermodal Rail Yard Facilities (Drayage Truck regulation), title 13, Cal. Code Regs., section 2027. This notice summarizes the specific amendments being proposed. The staff report (Initial Statement of Reasons) presents the proposed amendments and information supporting the amendments of the regulations in greater detail.

DATE: December 16, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 16, 2010, and may continue at 8:30 a.m., December 17, 2010. This item may not be considered until December 17, 2010. Please consult the agenda for the hearing, which will be available at least ten days before December 16, 2010, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

A. Sections Affected

Proposed amendments to California Code of Regulations., title 13, section 2025, Truck and Bus regulation; California Code of Regulations., title 17, sections 95301, 95302, 95303, 95304, 95305, 95306, 95307, 95309, and 95311 Tractor-Trailer GHG regulation; and California Code of Regulations., title 13, section 2027, Drayage Truck regulation.

B. Background:

1. Introduction

The amendments to the Truck and Bus regulation are being proposed to provide heavy-duty truck and bus fleets with additional flexibility in response to a recent analysis that shows that vehicle activity and emissions are below the levels estimated when the Truck and Bus regulation was initially adopted. Amendments to the Truck and Bus regulation are further being proposed to align the regulation with amendments being proposed to the Drayage Truck regulation that address concerns about localized exposure in communities near ports and intermodal rail yards. Staff is also proposing to amend the existing Tractor-Trailer GHG regulation to provide affected fleets with additional flexibility in meeting the requirements, to ease their burden of compliance, and in some cases to reduce compliance costs, with minimal impact on the GHG benefits as initially approved.

2. Truck and Bus Regulation

On December 11, 2008, the Board approved the Truck and Bus regulation to reduce emissions of diesel particulate matter (diesel PM), oxides of nitrogen (NOx), and other criteria pollutants from nearly one million in-use diesel trucks and buses that operate in California. The reductions were adopted to meet State and federal air quality standards. The regulation, as adopted, supported the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles, which the Board adopted on September 30, 2000. The regulation, when implemented, would require the installation of exhaust retrofits to reduce emissions from existing engines, and accelerate the introduction of cleaner engines into fleets that operate in California.

The Truck and Bus regulation was approved by Resolution 08-43, which among other things directed staff to monitor the economy and report to the Board in December 2009 on the impact of the recession on emissions and affected fleets. At the December 2009 Board Hearing, staff presented the results of an analysis that showed that vehicle activity and emissions were below the levels estimated when the regulation was developed and that 2014 emission goals could now be met with fewer emission reductions from heavy-duty vehicles. The Board then determined that additional flexibility could be provided for fleets adversely affected by the economy and directed staff to propose amendments to the regulation that take into account the impacts of the economy on emissions and provide relief to affected fleets. In April 2010, the Board further directed staff to consider the impact of the recession and emission inventory

changes from both on-road and off-road diesel vehicles, and to provide regulatory relief to fleets affected by the Truck and Bus regulation and/or the In-Use Off-Road Diesel Vehicle regulation such that any appropriate economic relief could be targeted most cost effectively between the two regulations, and staff could ensure the combined emissions benefits achieved by the two regulations would continue to meet state implementation plan (SIP) requirements for the combined SIP categories. Staff will be proposing amendments to the Off-Road regulation at the December 16 and 17, 2020 Board Hearing when it considers amendments to the Truck and Bus regulation.¹

In considering changes to the Truck and Bus regulation staff is also proposing changes to the requirements of the Drayage Truck regulation to address many of the same issues directed by the board and to better align the requirements of the two regulations.

Finally, in December 2008, by Resolution 08-43, the Board approved amendments to bring two-engine sweepers under the Truck and Bus regulation.

Applicability

The Truck and Bus regulation, as originally adopted, applies to any person, business, or federal government agency that owns, operates, or sells, heavy-duty diesel-fueled vehicles with a manufacturer's gross vehicle weight rating (GVWR) greater than 14,000 pounds, two-engine sweepers, yard trucks with on-road or off-road engines and diesel-fueled shuttle vehicles of any GVWR that have a capacity of ten or more passengers, and routinely drive an average of ten trips per day to or from airport terminals, marine terminals, and rail-based stations. Drayage trucks and utility-owned vehicles are respectively subject to the Truck and Bus regulation beginning January 1, 2017 and January 1, 2021. The regulation applies to vehicles that operate in the State whether or not the vehicle is registered in California. The regulation does not apply to various heavy-duty vehicles, including military tactical support vehicles, authorized emergency vehicles, personal-use motor homes, and personal-use vehicles with pick-up beds, and vehicles subject to the Mobile Cargo Handling Equipment regulation, title 13, Cal. Code Regs., section 2479, as well as vehicles covered under other ARB regulations (see title 13, Cal. Code Regs., section 2025(c).

Fleet Requirements

The regulation, as originally adopted, requires owners to upgrade their fleets to meet specific PM and NOx performance standards defined as best available control technology or BACT. The BACT standard for PM is an engine equipped with the highest level verified diesel emission control strategy (VDECS²) for PM (also referred to as a PM filter) or an engine originally equipped with a diesel particulate filter by the

¹ Notice of Public Hearing to Consider Proposed Amendments to the Regulation for In-Use Off-Road Diesel-Fueled Fleets and Off-Road Large Spark Ignition Engine Fleet Requirements. December 16, 2010.

² A retrofit device that has been verified under ARB's Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines, title 13, Cal. Code Regs., sections 2700 et seq.

engine manufacturer. The BACT standard for NOx is an engine newly manufactured in 2010 or later or a 2010 emissions equivalent engine.

Fleets could meet the annual requirements by retrofitting vehicles with a VDECS that would achieve PM or NOx reductions or both as required, replacing vehicles with newer, cleaner ones, or replacing existing engines with cleaner engines. Fleets could also retire older vehicles, or operate higher emitting vehicles less often, designating them as low-use vehicles.

Starting January 1, 2011, fleets are required to install PM filters for certain engine model years and to begin accelerating engine or vehicle replacement starting January 1, 2013. The adopted regulation anticipates that by 2014, half of all vehicles in the fleet would have 2010 model year (MY) or newer engines and the remainder of the fleet would have engines equipped with PM filters. After 2014, fleets are required to phase-in additional 2010 MY or newer engines so that by 2023 all engines would have 2010 or later MY engines or be retrofitted to achieve equivalent emission reductions.

Each year fleets must demonstrate compliance by meeting one of the regulation's three compliance options:

1. Comply with a BACT schedule that prescribes which vehicles must be equipped with VDECS or replaced based on engine MY; or
2. Meet a BACT percent limit option that sets the minimum number of PM filters and the minimum number of 2010 or equivalent engines in the fleet each year; or
3. Meet specified fleet average emission rate targets.

The regulation includes a number of special provisions that delay some or all of the requirements for certain fleets and vehicle uses. These provisions are available for small fleets, low-use vehicles, agricultural vehicles, vehicles operating exclusively in designated NOx exempt areas, school buses, motor coaches, and unique vehicles. The regulation also provides for manufacturer delays, vehicle retirement credits, hybrid vehicle credits, specialty agricultural vehicles, and VDECS safety exemptions.

Rationale for Amendments

Staff is proposing to amend the Truck and Bus regulation to implement the Board's directives to provide additional flexibility for fleets that have been adversely affected by the economic recession, while taking into account that emissions are lower than expected due to reduced activity as a result of the recession.

3. Drayage Truck Regulation

In December 2007, in Resolution 07-58, ARB approved the Drayage Truck regulation to reduce emissions from on-road heavy duty diesel-fueled drayage trucks – described as trucks that predominantly transport containers, bulk, and break-bulk goods to and from ports and intermodal rail yards. The regulation is applicable to owners and operators of Class 8 tractors having a GVWR greater than 33,000 pounds that operate at California

ports and intermodal rail yards. Staff initially estimated that there would be approximately 25,000 tractors in frequent or semi-frequent port and intermodal rail yard drayage service subject to the regulation. The Board adopted additional amendments to the regulation in 2008 (Resolution 08-43), in which it imposed additional requirements on 2004-2006 MY drayage trucks.

Existing Requirements

The requirements of the regulation are being implemented in two phases: Phase 1 and Phase 2. In Phase 1, by December 31, 2009, all drayage trucks with a 1994 to 2003 MY engine are required to be retrofitted with a level 3 VDECS for PM or be equipped with a 2004 MY or newer engine. 2004 through 2006 MY drayage trucks must be equipped with a level 3 VDECS for PM by January 1, 2011 and 2012, respectively. Additionally, drayage trucks must register with the ARB's Drayage Truck Registry (DTR) before entering California's ports and intermodal rail yard facilities. In Phase 2, all drayage trucks are required to meet or exceed California or federal 2007 MY heavy duty diesel engine emissions standards by December 31, 2013.

Staff is proposing to amend the Drayage Truck regulation in conjunction with proposed amendments to the Truck and Bus regulation to align the two regulations and to address concerns about localized exposure in communities near ports and intermodal rail yards.

4. Tractor-Trailer GHG Regulation

On December 11, 2008, the Board approved the existing Heavy-Duty Vehicle GHG Emission Reduction (Tractor-Trailer GHG) regulation. This regulation reduces GHG emissions from 53-foot or longer box-type trailers and the tractors that haul such trailers by requiring them to utilize technologies that would result in improved fuel efficiency, such as low-rolling resistance tires and aerodynamic technologies (for example, side skirts, gap fairings, and rear trailer fairings). The Tractor-Trailer GHG regulation is one of the measures identified in ARB's Scoping Plan to reduce GHG emissions and contributes towards meeting the GHG emission reduction goals of Assembly Bill 32 (Global Warming Solutions Act of 2006).

Applicability

The Tractor-Trailer GHG regulation applies to 53-foot or longer dry-van and refrigerated-van trailers (hereinafter collectively referred to as box-type trailers) and the tractors that pull them on California highways. The regulation applies primarily to affected tractor and trailer owners who are responsible for replacing or retrofitting their affected vehicles. In addition, drivers, motor carriers, California-based brokers and California-based shippers that operate or use affected tractors and trailers also share responsibility for compliance with the regulation. The regulation applies to both California and out-of-state registered tractors and trailers that operate in California. The regulation does not apply to box-type trailers shorter than 53 feet in length; refuse trailers, chassis trailers, drop frame trailers, curtain side trailers, livestock trailers, emergency vehicles, or military tactical vehicles.

Existing Requirements

The Tractor-Trailer GHG regulation requires new and existing long-haul tractors pulling 53-foot or longer box-type trailers and 53-foot or longer box-type trailers pulled by these tractors to be United States Environmental Protection Agency (U.S. EPA) SmartWay³ (SmartWay) certified or retrofitted with SmartWay verified aerodynamic technologies and low-rolling resistance tires when they operate on California highways.

Fleets with pre-2011 MY trailers have the option of retrofitting their affected trailers over several years by following one of two compliance schedules based on fleet size. The regulation also includes a special provision for 2003 to 2008 MY refrigerated van trailers to delay compliance until 2017 to 2019 depending on trailer MY.

Since the technologies required by the regulation offer the most efficient improvements at highway speeds, the regulation includes provisions to exempt local-haul trailers, local-haul tractors and short-haul tractors and the trailers they pull from some or all of the requirements.

Rationale for Amendments

Staff believes many fleets were not aware of the Tractor-Trailer GHG regulation and may have missed the July 1, 2010 deadline to participate in the optional large fleet phase-in compliance plan for trailers. Staff is therefore proposing amendments to provide fleets another opportunity to opt-in to the phase-in compliance option. Staff is also proposing additional amendments to provide fleets with additional flexibility in meeting the requirements of this regulation, such as by providing flexibility in complying with existing fleet reporting requirements, and including temporary, short-term exemptions for specific circumstances, such as those associated with storage trailers, transfers of ownership, and moving local-haul trailers. These amendments will provide affected tractors, trailers, and fleets additional flexibility to ease their burden of compliance, and in some cases reduce compliance costs, with minimal impact on the GHG benefits associated with the original regulation.

C. Proposed Amendments to the Truck and Bus Regulation

Staff is proposing substantial changes to the requirements of the Truck and Bus regulation to meet the Board's directive to provide regulatory relief to affected fleets. Staff is also making changes to simplify certain reporting requirements and to improve enforceability. The following describes the amendments proposed by staff.

³ The U.S. EPA SmartWay Partnership Program is a federal voluntary program designed to improve the environmental performance associated with the ground freight delivery system in the United States. The Partnership develops guidelines and verifies fuel efficiency improving technologies such as tractor and trailer aerodynamic equipment and low rolling resistance tires, and certifies fuel efficient tractors and trailers that incorporate these technologies.

1. New Compliance Requirement for Lighter Vehicles

Staff is proposing a new provision (section 2025(f) in the proposed amended regulation) that would exempt about 150,000 vehicles with a GVWR less than 26,001 pounds from the PM BACT requirements. Starting January 1, 2015, and continuing each year thereafter until 2020, engines with model years that are 20 years old or older would need to be replaced with a 2010 MY engine or equivalent. Then, from 2020 to 2023, all remaining pre-2010 MY engines would be required to be 2010 MY engine equivalent according to the schedule specified in section 2025(f) of the proposed amended regulation.

2. New BACT Compliance Schedule for Heavier Vehicles

Staff is proposing to amend the BACT compliance schedule of section 2025(f) of the existing regulation. The revised schedule (section 2025(g) in the proposed amended regulation) would require vehicles, with a GVWR greater than 26,000 pounds (heavier vehicles) with 1998 to 2006 MY engines, to meet PM BACT between January 1, 2012 and January 1, 2014. Fleets would need to replace heavier vehicles having pre-1998 MY engines with a 2010 MY engine or equivalent engines between January 1, 2015 and January 1, 2017. Any heavier vehicle that meets PM BACT prior to January 1, 2014 would be exempt from meeting the 2010 MY emission equivalent requirement until January 1, 2020. From January 1, 2020 to January 1, 2023 all pre-2010 engines would be required to be phased out of service.

Staff will also propose a provision to accommodate those fleets that have already taken compliance actions based on the BACT schedule in section 2025(f) of the existing regulation.

3. Phase-In Option for Small Fleets

Staff proposes to replace the existing optional provision for small fleets (section 2025(i) in the existing regulation) with a new optional phase-in provision for small fleets that have one to three vehicles subject to the regulation. The new provision in section 2025(h) would allow small fleets to report starting January 31, 2012 and would make the heavier vehicles exempt from the regulation's PM BACT requirements until January 1, 2014 and the 2010 engine or equivalent emissions requirements until January 1, 2020. One vehicle in the small fleet would need to meet PM BACT by January 1, 2014, two vehicles by January 1, 2015, and three vehicles by January 1, 2016. Beginning January 1, 2020, all vehicles in the fleet would need to comply with the 2010 engine or equivalent emissions according to the proposed BACT compliance schedule of section 2025(g).

4. Phase-In Option for Large Fleets

Staff is proposing a new compliance option in section 2025(i) to provide additional compliance flexibility for fleets with four or more vehicles subject to the regulation. With this option, the heavier vehicles in the fleet would need to comply with PM BACT by bringing 30 percent of the heavier vehicles into compliance by January 1, 2012, 60 percent by January 1, 2013, and 90 percent by January 1, 2014. By

January 1, 2016, the remaining vehicles in the fleet would need to comply according to the proposed PM and 2010 engine or equivalent BACT compliance schedule of section 2025(g). Fleets utilizing this provision would need to report required fleet information for all vehicles starting January 31, 2012. Staff is also proposing to allow fleets with drayage trucks and non-drayage trucks to include all of their vehicles in the phase-in option when determining compliance. This change to the Truck and Bus regulation would not modify any of the requirements of the Drayage Truck regulation (title 13, CCR, section 2027). This phase-in option would expire on January 1, 2017.

5. Relief for Fleets that have Reduced their Fleet Size

Staff is proposing a provision in section 2025(i)(4) of the proposed amended Truck and Bus regulation that offers relief to fleets that have reduced their fleet size compared to their fleet size on October 1, 2006 (this is their “2006 baseline”). This provision would replace the retired vehicle credit of section 2025(k) of the existing regulation. It would only be available for heavier vehicles and only to fleets that have opted into the phase-in option. Until January 1, 2016, a fleet would be able to reduce its requirement for a compliance year by the same percentage that the fleet has downsized from the 2006 baseline fleet. For determining this credit, the fleet would be allowed to exclude existing vehicles that will not operate in the appropriate compliance year. The provision would expire January 1, 2016. Staff is also proposing a new definition of the baseline fleet (2006 baseline fleet) in section 2025(d)(1) of the proposed amended regulation to replace the definition of the 2008 baseline fleet associated with the retired vehicle credit of the existing regulation. The baseline date would be changed from July 1, 2008 to October 1, 2006 and the definition for the 2006 baseline would not include a mileage requirement for California registered vehicles but would require out-of-state fleet vehicles to have been driven at least 1,000 miles in California during 2006 to be eligible to receive the credit. Similar relief will be provided for school buses.

6. Credits

Staff is proposing to amend the credits for early installation of VDECS and for the purchase of hybrid vehicles, alternative-fueled vehicles, and heavy-duty pilot ignition vehicles (sections 2025(p)(1)(E), (p)(8), and (9) in the existing regulation) These sections would be replaced in the proposed amended regulation with section 2025(j). For each vehicle that had the highest level VDECS for PM installed by July 1, 2011, and for each fuel efficient hybrid vehicle, alternative fueled vehicle, or heavy-duty pilot ignition engine added to the fleet, the fleet could treat another vehicle as compliant until January 1, 2017. The fleet would be required to report information about the vehicle receiving the credit and the vehicle to be treated as compliant. Similar flexibility would be provided for school buses.

In addition, the Board may consider additional amendments to provide fleets with flexibility to take credit for actions to reduce emissions between the off-road regulation and the on-road regulation.

7. School Bus Requirements

Staff is proposing to amend the school bus provision (section 2025(j) of the existing regulation (renumbered as section 2025(k) in the proposed amended regulation) to exempt school buses with a GVWR less than 26,001 pounds. Staff' is also proposing a one-year delay before school buses with a GVWR over 26,000 pounds must meet PM BACT. The BACT compliance schedule of the existing regulation will be replaced by a phase-in schedule that requires the fleet to bring 33 percent of the school buses in the fleet into compliance with PM BACT by January 1, 2012, 66 percent by January 1, 2013, and 100 percent by January 1, 2014. The changes would better align the requirements with the amendments being made for other vehicles subject to the regulation.

8. Drayage Trucks

Staff is proposing to amend the requirements for drayage trucks now located in section 2025(e)(4) of the existing regulation. The amendments proposed in section 2025(l) of the proposed amended regulation would allow a fleet owner to include all of their drayage trucks in the fleet for the purpose of complying with the Truck and Bus regulation's proposed phase-in option for large fleets. This option is allowed only if all of the owner's drayage trucks are included in the Truck and Bus regulation fleet. In addition, the initial date that drayage trucks are required to comply with the Truck and Bus regulation has been changed from January 1, 2021 to January 1, 2017. The proposed amendments to the drayage truck provision in section 2025(l) do not modify any of the requirements of the Drayage Truck regulation (title 13, CCR, section 2027).

9. Two-Engine Sweepers

Staff is proposing to amend section 2025(n)(3) regarding the labeling requirements for two-engine sweepers. Staff proposes to require labeling of all two-engine sweepers with Tier 0 auxiliary engines regardless of the compliance option selected. The current language limits the requirement to only those two-engine sweepers that comply with the BACT percentage limits or fleet averaging option of the existing regulation.

10. Agricultural Vehicles

Staff is proposing to amend section 2025(r)(6) to extend the initial reporting deadline for agricultural vehicles to March 31, 2011 and to amend section 2025(m)(2) to extend the initial compliance date to January 1, 2012 for vehicles in the agricultural fleet that do not qualify for the agricultural vehicle provisions. Staff is also proposing to amend the definition of an agricultural vehicle in section 2025(d)(5) (section 2025(d)(6) of the proposed amended regulation), to clarify the types of vehicles and usage that would qualify a vehicle as an agricultural vehicle. Also, the specialty vehicle designation now limited to feed trucks or mixer-feed trucks in section 2025(d)(69) of the existing regulation would be amended in section 2025(d)(53) of the proposed amended regulation to extend the designation to all livestock feed trucks. Staff is also proposing to amend section 2025(m)(2) so that it no longer identifies specific compliance options available to agricultural fleets, in effect allowing them to use the regulation's special provisions and exemptions for their vehicles that do not qualify for the agricultural

vehicle provisions. In addition, staff is proposing to amend sections 2025(m)(6) and (m)(7) to clarify the restrictions on fleets seeking to replace limited-mileage and low-mileage agricultural vehicles and still maintain the vehicle designation.

11. Log Truck Requirements

Staff is proposing a new optional phase-in schedule in section 2025(m)(9) for log trucks and to add a definition for “log truck” in section 2025(d)(40) of the proposed amended regulation. With this option, fleet owners would not be required to install PM retrofits, but instead would be required to phase in 2010 MY emissions equivalent engines at the rate of 10 percent of the log truck fleet per year from January 1, 2014 to January 1, 2023. The proposal would not allow the total number of log trucks using the log truck provision to increase from one year to the next. The total number of log trucks and qualifying agricultural vehicles could not exceed the number of vehicles in the fleet as of January 1, 2009.

12. Definition of Low-Use Vehicle

Staff is proposing to replace the definition of a low-use vehicle in section (d)(47) of the existing regulation with a new definition in section (d)(43) of the proposed amended regulation. The proposed definition would specify when mileage or hours of operation are to be used in determining whether the vehicle qualifies as low use. Under the proposal, a vehicle without power take off (PTO) would be a low-use vehicle if the propulsion engine will be operated in California for fewer than 1,000 miles in any compliance year. For a vehicle with PTO designed to perform work while the vehicle is stationary, the vehicle would meet the low-use definition if the propulsion engine is operated in California for fewer than 1000 miles and less than 100 hours in any compliance year.

13. Reporting Requirements for Fleets with Low-Use Vehicles

Staff is proposing to amend the reporting requirement of section 2025(r)(2) to allow a fleet owner to report only the low-use vehicles in the fleet if these are the only vehicles in the fleet for which reporting is required and all other vehicles in the fleet are meeting the requirements of the BACT compliance schedule.

14. Exemption for Vehicles Unable to Upgrade

Staff is proposing to add an exemption in section 2025(p)(1) for vehicles unable to upgrade to a 2010 MY emissions equivalent engine. The fleet owner would be able to apply to the Executive Officer for a one year exemption from the requirement if by January 1, 2014, a used vehicle or suitable cab and chassis that performs a similar function with a 2010 equivalent emissions engine is not available and the highest level VDECS for PM is not available to be installed by 2014.

15. Operation in NOx Exempt Areas

Staff is proposing to amend the section 2025(p)(1)(B), which currently applies to vehicles operated in certain counties defined as NOx exempt areas. The amendments

would provide that vehicles operating exclusively in NOx exempt areas to continue to be exempt from any vehicle replacement requirements until 2021 but would remain subject to meeting PM BACT on the same schedule as other fleets.

16. Deleted Provisions

Staff is proposing to delete the provisions listed below from the existing regulation. The BACT percentage limits option and the Fleet averaging option would no longer be needed because the proposed new compliance options for lighter and heavier vehicles and the new phase-in options add more flexibility and have reduced requirements. The other provisions would no longer be needed since the proposed new or amended requirements do not require accelerated vehicle replacements and provide additional flexibility for fleets to keep older vehicles in the fleet longer.

- BACT Percentage Limits option – section 2025(g),
- Fleet Averaging option – section 2025(h),
- Exemption for cab-over-engine truck tractors - section 2025(p)(2),
- Provision for unique vehicles – section 2025(p)(3),
- NOx mileage exempt vehicles - section 2025(p)(1)(A),
- Requirements for motorcoaches – section 2025(l).

17. Other Amendments

Staff is proposing amendments to section 2025(d), to modify existing definitions and to define new terms that are associated with the amendments outlined above. Staff is also proposing to modify other sections to clarify existing requirements and improve enforceability of the regulation and streamlining reporting and recordkeeping. These include proposed changes to the exemption for vehicles operating with a three day pass (moved from section 2025(p)(5) of the existing regulation to section 2025(p)(3) of the proposed amended regulation), and the proposed addition in section 2025(o)(2)(B) to clarify the requirements for fleets that change their status.

In addition to the above, the Board may consider amending the Truck and Bus regulation to cover other two-engine vehicles, as appropriate, for reasons similar to its past decision to include two-engine sweepers within the regulation's scope.

D. Proposed Amendments to the Drayage Truck Regulation

Staff is proposing to amend the Drayage Truck regulation to align its requirements with those of the Truck and Bus regulation and to mitigate the effects of dray-off activities⁴ occurring outside ports and rail yards. The proposed amended regulation will facilitate the transition to one statewide truck and bus regulation. Key elements of the proposed amendments include: eliminating the Phase 2 compliance requirement that all trucks in port and intermodal rail yard service meet or exceed 2007 MY engine standards in

⁴ Dray-off is the activity in which cargo destined for or originating from ports or rail yards are delivered or picked up outside or in the proximity of port or intermodal rail yard facilities by non-compliant vehicles that circumvent the drayage truck regulation.

2014, requiring that Class 7 vehicles (GVWR greater than 26,000 pounds but less than 33,001 pounds) be retrofitted with a PM filter by 2014 and sunsetting the Drayage Truck regulation at the end of 2016, at which time, drayage trucks will become subject to the requirements of the Truck and Bus regulation. The Board may consider other amendments to the Drayage Regulation that it determines necessary to ensure alignment with the proposed amendments to the Truck and Bus regulation.

1. Eliminating Phase 2 Requirements

Staff is proposing to allow 1994-2006 MY engines retrofitted with level 3 VDECS to continue to operate at port and intermodal rail yards after January 1, 2014 by eliminating the current Phase 2 requirement in section 2027(d)(2) that requires drayage trucks meet or exceed California or federal 2007 MY engine emissions standards by that date. Eliminating this Phase 2 requirement would allow trucks that are retrofitted with a level 3 VDECS to continue operating at the ports and intermodal rail yard facilities until the Truck and Bus regulation mandates modernization. These proposed amendments would effectively align the Drayage Truck regulation's compliance timelines with those of the Truck and Bus regulation and would provide relief and compliance flexibility to drayage truck owners.

2. Mitigating Dray-Off Activity

Staff is proposing several amendments to prevent drayage trucks from exchanging cargo with dirty trucks near port or rail facilities. This practice is commonly referred to as 'dray-off'. Operators who engage in dray-off are circumventing regulatory requirements and adversely impacting the air quality of the surrounding communities. Staff is proposing the following changes in the Drayage truck regulation to prevent dray-off.

- Expand the definition of a 'drayage truck' in section 2027(c)(15) to include trucks engaging in drayage activities outside of port and rail yard facilities.
- Modify section 2027(b)(1) to expand the applicability of the regulation to drayage truck owners and operators operating off of port or intermodal rail yard properties and their dispatching motor carriers.
- Modify the definition of 'Drayage Truck Operator' in section 2027(c)(17) to include drivers operating vehicles off of port or intermodal rail facilities.
- Modify the definition of 'Motor Carrier' in section 2027(c)(33) to include motor carriers dispatching drayage trucks to locations off of port or intermodal rail facilities to pick-up or deliver goods that are destined for or that originated from ports or intermodal rail facilities.
- Add section 2027(d)(4)(A)(2) to require drayage truck operators to identify and provide documentation as to the origin and destination of the cargo and intermodal equipment upon request.
- Modify section 2027(d)(5)(A)(2) to require motor carriers to dispatch only compliant drayage trucks to locations off of port or intermodal rail facilities.
- Modify section 2027(d)(5)(A)(5) to clarify that motor carriers are only required to keep dispatch records of drayage trucks that enter port or intermodal rail yard properties.

- Modify section 2027(e)(1)(C) to clarify that only drayage trucks entering port or intermodal rail yard properties are required to register in the Drayage Truck Registry as operated by the Air Resources Board.

The proposed amendments would allow enforcement personnel to cite noncompliant drayage trucks outside of port and rail yard properties. Motor Carriers responsible for dispatching drayage trucks that engage in dray-off would also be held accountable under the amendments. In addition, the amendments would also level the playing field between noncompliant drayage truck owners and owners of drayage trucks that have invested significant funds modernizing their fleets.

3. Including Class 7 Trucks and a New Phase 2 PM Requirement

Staff is proposing amendments to the Drayage Truck regulation to include Class 7 trucks and require that they operate with a level 3 VDECS for PM by 2014. The existing Truck and Bus regulation, (Cal. Code Regs.), section 2025, already requires all Class 7 trucks statewide (with few exceptions) to operate with a MY 2004 or newer engine equipped with a level 3 VDECS by January 1, 2014. Although, staff is proposing to amend the Truck and Bus regulation to allow certain Class 7 trucks to extend their operations until 2017 without additional PM controls, the proposed amendments would not apply to Class 7 drayage trucks. The amendments to the Drayage Truck regulation would ensure that all drayage trucks operate with PM controls in the near-term and also eliminate the increasingly common practice of operating older and dirtier Class 7 trucks at the ports and rail yards instead of emission compliant Class 8 drayage trucks. To accomplish this goal, staff is proposing to: 1) expand the definition of a 'drayage truck' in section 2027(c)(15) to include trucks with a GVWR greater than 26,000 pounds, 2) modify the definition of 'heavy-duty' in section 2027(c)(26) to greater than 26,000 pounds, 3) add a new Phase 2 requirement in section 2027(d)(2) for trucks with a GVWR greater than 26,000 pounds to operate with a level 3 VDECS by January 1, 2014, and 4) add clarifying language that Phase 1 requirements in section 2027(d)(1) only apply to trucks with a GVWR greater than 33,000 pounds.

4. Sunsetting of Drayage Truck Regulation

To complete the transition to one statewide rule for all diesel-fueled trucks, staff is proposing modifications to the applicability in section 2027(b) and the addition of a new section 2027(j) that formally sunset the Drayage Truck regulation on December 31, 2016. Starting January 1, 2017, all drayage truck owners and operators would be subject to the requirements of the Truck and Bus Rule. Compliant trucks would be able to continue to operate until 2020.

E. Proposed Amendments to the Tractor-Trailer GHG Regulation

Staff is proposing the following amendments to the Tractor-Trailer GHG regulation.

1. Optional Second Compliance Schedule for Large Fleets

Staff proposes to modify section 95307 to provide large fleet owners another optional compliance phase-in schedule. This amendment would provide large fleets one

additional year to register with ARB, but would have an accelerated phase-in schedule that has the same final compliance deadline as the current large fleet phase-in option. Specifically, fleets that choose this second option would have a reporting deadline on July 1, 2011 and phase-in beginning with 20 percent in 2011, 40 percent in 2012, 60 percent in 2013, 80 percent in 2014, and 100 percent in 2016.

2. Additional Reporting Flexibility

Staff proposes to add new section 95307(f), to provide trailer fleet owners that participate in an optional compliance phase-in schedule additional flexibility regarding compliance plan reporting requirements. Such owners would be allowed to report which trailers in their fleets were brought into compliance at the end of each year, as opposed to identifying their entire phase-in schedule in a one-time multi-year plan, as required by the current regulation. However, trailer fleet owners would still be allowed to submit a one-time, multi-year compliance plan for their fleet should they so choose. Section 95307(f) would also require trailer fleet owners to specify the specific method by which they will bring each trailer into compliance; either retrofitting the trailer with aerodynamic technologies or removing the trailer from the owner's fleet. In addition, trailer fleet owners would need to report each trailer identified in the compliance plan that is re-designated as a local-haul or storage trailer.

3. Exemption of Storage Trailers

Staff proposes to modify subsection 95305(e) to add an exemption for 53-foot or longer box-type storage trailers that are used exclusively for storage of items at a single location. Specifically, staff proposes exempting storage trailers from the aerodynamic technology and low rolling resistance tire requirements of the regulation provided that such storage trailers travel empty of freight while on California highways.

Staff is also proposing that owners of storage trailers can apply for a "Relocation Pass" 95305(f) which, if approved by the Executive Officer, would allow a storage trailer to travel during a specified period, not exceeding three consecutive days, to a new storage location while loaded with freight. To qualify for the storage trailer exemption, trailer fleet owners would need to first register their storage trailers with ARB.

4. Trailer Aerodynamic Equipment Compliance Delay

Staff is proposing to add new section 95305 (i), to provide a compliance delay for dry-van or refrigerated van trailers that are configured such that no SmartWay verified aerodynamic technologies can be effectively installed on them. The delay would provide a one year extension from the trailer's applicable compliance date or from the conformance threshold deadline for trailers participating in optional fleet compliance schedules. Trailer owners would need to seek and obtain Executive Officer approval of such compliance delays, and would need to renew requests on an annual basis. However, once SmartWay verified technologies become available for a trailer configuration, that trailer would not be eligible for the proposed compliance delay.

5. Delayed Compliance for 2009 Model Year Refrigerated Van Trailers

Staff is proposing to modify section 95303(b) to include 2009 MY refrigerated van trailers (equipped with 2003 MY or newer TRUs) in the delayed compliance provision currently available to 2003 through 2008 MY refrigerated van trailers (equipped with 2003 and newer MY TRUs). As with all trailers included in the refrigerated fleet extended compliance provision, 2009 MY refrigerated van trailers would have until the end of 2019 to be brought into compliance with the regulation.

6. Allowances for Modifications to Aerodynamic Equipment

Staff is proposing to modify the trailer requirements applicable to 2011 and newer dry-van trailers (section 95303(b)(1)), 2011 and newer refrigerated van trailers (section 95303(b)(2)), and to 2010 or prior MY dry-van and refrigerated van trailers (section 95303(b)(3)), to allow such trailers to also be equipped with SmartWay Verified technologies that have been modified in any manner from the SmartWay Verified configuration. Only modifications that are required to enable a particular SmartWay technology to be installed on a trailer are allowed, and are subject to advance review and approval by the Executive Officer. The Executive Officer will base his or her determination upon any information submitted that demonstrates the proposed modifications would not significantly increase the aerodynamic drag of the SmartWay Verified configuration, and on good engineering judgment.

7. Short Term Exemption for Transporting Empty Local-Haul and Storage Trailers

Staff is proposing to modify sections 95305(c)(1)(B) and 95305(e)(1)(A) to allow exempted local-haul and storage trailers to travel on California highways outside of their base area or away from their current storage location, as long as these trailers are transported empty of freight. This proposal would allow an exempt local-haul trailer to move outside its local-haul area while still maintaining its exempt status, and would allow an exempt storage trailer to travel to another storage location while still maintaining its exempt status. These exemptions would not require reporting to ARB.

8. Relocation Pass for Exempt Local-haul Trailers and Exempt Storage Trailers Carrying Freight

Staff is proposing to add a provision in section 95305(f) that would allow an owner to obtain a relocation pass to allow an exempt local-haul trailer to travel outside its local-haul area while still maintaining its exempt status, and would also allow an exempt storage trailer to travel to another storage location while still maintaining its exempt status. The relocation pass could also be used to transport a local-haul or storage trailer to or from a location outside of California, without having to install the required aerodynamic technologies. The relocation pass would only be necessary when transporting freight in the trailer. Up to four relocation passes per year per trailer could be issued, with each pass not to exceed three consecutive days. Reporting requirements would apply. The proposed amendments would provide fleet operators additional flexibility to comply with the regulation.

9. Limited Three-Day Exemption for Tractors

Staff is proposing to add a provision in section 95305(h) that would allow tractor owners to request and obtain a temporary exemption pass from the regulation, not to exceed three consecutive days, for affected tractors and the trailers they pull to travel on California highways. Only one pass would be issued to an owner per year. Furthermore, only one tractor per fleet, sharing U.S. Department of Transportation (USDOT), motor carrier, or International Registration Plan (IRP) numbers, could be granted one pass per year. In other words, if a fleet is made up of multiple owners, only one pass could be issued to a tractor in that fleet, regardless of the number of owners in that fleet. To ensure the limited use and availability of this exemption, staff proposes to sunset this provision on January 1, 2015.

10. Transfer of Ownership Pass for Trailers

Staff is proposing to include a provision in section 95305(g), to allow sellers of affected trailers to obtain a temporary exemption for trailers that have been sold and are being transported from the seller's location to the buyer's location. This Transfer of Ownership pass would allow sellers of affected trailers to obtain a temporary exemption during the transfer of ownership period, either not to exceed three consecutive days, or for an alternate time period as determined by the Executive Officer.

11. Delaying Low Rolling Resistance Tire Requirements for Pre-2011 Model Year Tractors and Trailers

The current regulation requires pre-2011 MY tractors to use SmartWay verified tires by January 1, 2012, and pre-2011 MY trailers to use SmartWay verified tires by either January 1, 2013, or by the deadlines specified in the optional large or small fleet compliance schedules. Staff is proposing to amend sections 95303(a)(3) and 95303(b)(3) to provide pre-2011 MY tractors and trailers additional time to be equipped with SmartWay verified low rolling resistance tires. Pre-2011 MY tractors would have an additional year to be equipped with SmartWay verified tires, and pre-2011 MY trailers would be allowed up to four additional years to be equipped with SmartWay verified tires. No similar extensions would be allowed for MY 2003 through 2009 refrigerated-van trailers equipped with 2003 or subsequent MY transport refrigeration units (these trailers would still be required to convert their tires to SmartWay tires between January 1, 2018 and January 1, 2020).

12. Exemption for Open Shoulder Drive Tires

The current regulation requires 2011 and subsequent MY tractors to use SmartWay verified tires by January 1, 2010. Staff is aware that some regional-haul fleets must use open shoulder drive tires to negotiate roads in inclement weather. Currently, staff is aware of only three open shoulder drive tire models that are U.S. EPA SmartWay verified models. Therefore, staff is proposing to include a limited term exemption in section 95305(j) for 2011 or subsequent MY tractors using open-shoulder drive tires. This exemption would sunset on January 1, 2013.

13. Disclosure Language and Recordkeeping

The current regulation requires any person residing in California that sells or leases an affected tractor or trailer to notify the buyer or lessee, in writing, that the tractor/trailer may be subject to the Tractor-Trailer GHG regulation. Staff is proposing to clarify, in section 95303(i), that only California-licensed vehicle dealers selling affected tractors or trailers are responsible for providing specified disclosure language, and in sections 95302(a)(42), that lessors of affected tractors and trailers are responsible for providing specified disclosure language. Staff is also proposing to relocate the “Disclosure of Regulation Applicability” requirement presently located in section 95301(d) to new section 95303(i). Staff is further proposing to add a requirement that identified sellers or lessors must maintain a record of the written disclosure for three years after the sale or lease in new section 95311.

14. Other Amendments

Staff is proposing amendments to section 95302, to modify existing definitions and to define new terms that are associated with the amendments outlined above. Staff is also proposing to modify section 95303 (c)(2) to require the driver of an affected tractor trailer to provide specified information to authorized enforcement personnel if he or she is driving an exempt drayage tractor; or a tractor-trailer operating under a relocation pass, transfer of ownership pass, or non-compliant tractor pass. Staff also proposes to modify section 95303(c)(3) to require drivers to allow enforcement personnel to directly view the inside of the trailer upon request. This provision would allow enforcement personnel to verify that a trailer is empty or hauling freight.

COMPARABLE FEDERAL REGULATIONS

Section 209(a) of the federal Clean Air Act (CAA) preempts states from adopting emission standards for new motor vehicles and engines. However, section CAA 209(b) provides that the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) shall grant California a waiver of preemption, unless certain specified findings can be made. The regulations proposed for amendment do not establish emission standards for new motor vehicles and engines, and thus no issue of federal preemption exists. Additionally, U.S. EPA does not have authority to adopt in-use emission standards relating to the control of in-use motor vehicles, and thus there are no federal regulations comparable to the Truck and Bus regulation, the Tractor-Trailer GHG regulation, or the Drayage Truck regulation to reduce emissions from in-use on-road diesel vehicles that operate in California.

CAA section 209(e)(2) allows California, upon obtaining authorization from U.S. EPA, to adopt and enforce emission standards and other requirements related to the control of emissions for new and in-use off-road engines not expressly preempted (i.e., as set forth in CAA section 209(e)(1), new off-road engines under 175 hp used in farm and construction equipment and vehicles and new locomotives and locomotive engines). The Truck and Bus regulation has requirements for off-road engines used in yard-goats and two engine street sweepers, and to the extent that the amendments to the regulation require authorization, ARB will request that U.S. EPA grant such

authorization. U.S. EPA does not have authority to adopt in-use regulations for off-road engines, and thus there are no federal regulations comparable to the California adopted regulatory provisions affecting off-road engines used in sweepers and yard goats.

There are also no comparable mandatory federal regulations to control GHG emissions from on-road heavy-duty vehicles. However, as described above, the U.S. EPA has a voluntary program, the U.S. EPA SmartWay Partnership Program, which is a collaboration between EPA and the freight sector designed to improve energy efficiency, reduce greenhouse gas and air pollutant emissions, and improve energy security.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory actions, which describes the basis of the proposed actions, and includes a summary of the economic and environmental impacts of the proposed amendments. The Staff Report is entitled: "Proposed Amendments to the Truck and Bus Regulation, the Drayage Truck Regulation and the Tractor-Trailer Greenhouse Gas Regulation."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikethrough format to allow for comparison with the existing regulations, may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on December 16, 2010.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact person in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed amendments to the Truck and Bus regulation may be directed to the designated agency contact persons, Ms. Beth White, Manager of the On-Road Compliance Assistance Section, at (916) 324-1704, or Ms. Gloria Lindner, Air Resources Engineer, at (916) 323-2803.

Inquiries concerning the proposed amendments to the Drayage Truck regulation should be directed to the designated agency contact person; Mr. Mike Sutherland, Manager of the Project Support Section, at (916) 445-4236 or be directed to the Drayage Truck Regulation phone line at (888) 247-4821.

Inquiries concerning the substance of the proposed amendments to the Tractor-Trailer GHG regulation should be directed to the designated agency contact persons, Ms. Dassi Pintar, Air Pollution Specialist, at (626) 575-7007, or Mr. Alex Santos, Staff Air Pollution Specialist, at (626) 575-6682.

Further, the agency representative and designated back-up contact persons, to whom nonsubstantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2010/truckbus10/truckbus10.htm>

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulation are presented below.

1. Costs to State Government and Local Agencies

Pursuant to Government Code section 11346.5(a)(5), the Executive Officer has determined that the proposed regulatory action would not create any costs to or mandates on any local agency or school district that are reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500).

Pursuant to Government Code sections 11346.5(a)(6), the Executive Officer has determined, based on estimates prepared in accordance with instruction adopted by the Department of Finance, that the amendments to the Truck and Bus, Drayage Truck, and Tractor-Trailer regulations would not create additional costs to any State agency or to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), create other nondiscretionary costs on local agencies, and affect costs or savings in federal funding to the State.

As stated, the proposed regulatory action would not increase costs for school districts and may result in savings. The proposed amendments to the school bus requirements of the Truck and Bus regulation provide school districts an opportunity to delay their initial compliance costs, without increasing the total cost of the regulation. As a result, there may be a decrease in cost as compliance costs are deferred to later years using later year dollars (i.e., the present value of their compliance costs will be lower).

2. Effect on Businesses and Private Persons

The determinations of the Board's Executive Officer, pursuant to Government Code section 11346.5(a)(9), concerning the costs or savings necessarily incurred by representative private persons and businesses in reasonable compliance with the proposed amendments to the regulations are presented below.

a) Truck and Bus Regulation

The proposed amendments represent major changes to the Truck and Bus regulation and provide substantial economic relief. The amendments to the regulation would exempt about 150,000 trucks with a gross vehicle weight rating less than 26,001 pounds from meeting the PM filter requirements. Staff estimates this change would eliminate most, if not all, of the costs for about 75,000 companies. The amended regulation would reduce annual requirements for fleets most affected by the recession.

The estimated costs of the amended Truck and Bus regulation in the next five years would be about 60 percent lower than the existing regulation, and the costs for the next 15 years would be about 60 percent lower. Average costs for local businesses outside the transportation sector would be reduced by about 70 percent. The amendments would eliminate costs of the existing regulation for thousands of small businesses.

Pursuant to Government Code section 11346.5(a)(7)(C), the Executive Officer has made an initial determination that the proposed regulatory action would affect businesses that aid in the making, distribution, cleaning, and maintenance of VDECS. Because the proposed amendments provide options to delay compliance with the PM requirements, the demand for PM retrofits in the near term may be substantially lower than originally anticipated. For some VDECS manufacturers and associated businesses that have invested capital based on original predictions of demand, there could be a delay in recovery of their capital investment. However, proposed incentive provisions are intended to encourage early retrofitting and could help mitigate potential impacts on retrofit businesses.

For the foregoing reasons, the Executive Officer has determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses.

b) Drayage Truck Regulation

The Executive Officer has further determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed amendments to the Drayage Truck regulation would affect small businesses. The Proposed amendments are expected to reduce the cost of compliance for most businesses by extending the compliance timeline for retrofitted trucks, eliminating costs associated with the Phase 2 requirements to upgrade to 2007 MY engines by 2014, and ending recordkeeping and reporting requirements after the Drayage Truck Regulation sunsets at the end of 2016.

c) Tractor-Trailer GHG Regulation

The proposed amendments to the Tractor-Trailer GHG regulation would provide greater flexibility for affected businesses and reduce the burden of compliance with the existing requirements. The proposed second phase-in option would enable some large fleets that opt into this plan to spread the cost of compliance over 5 years, between 2012 and 2016, rather than meeting the requirements fully by January 1, 2013. Also, exemption of storage trailers and the provisions for temporary passes for relocation, transfer of

ownership and for noncompliant tractors would enable fleets to move their trailers on California highways without having to retrofit their vehicles with equipment they might not otherwise need in to use. Delayed compliance of 2009 MY refrigerated-van trailers would reduce the burden of compliance on fleets faced with meeting multiple regulations at the same time. It would also reduce the burden of compliance during the early years of the regulation providing more time for the economy to recover. Extending the deadline for use of SmartWay verified low rolling resistance tires in order to provide additional time for fleets to continue using existing retreaded tires on their existing trailers until 2017 to allow U.S. EPA to develop specifications for SmartWay retreaded tires would also result in cost savings.

d) Reporting Requirements

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the Truck and Bus, Drayage Truck, and Tractor-Trailer GHG regulations that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

3. Effect on State Economy

Pursuant to Government Code section 11346.5(a)(8), the Executive Officer has made an initial determination that the proposed regulatory actions covering all three of the affected regulations would not have a significant Statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. In accordance with Government Code sections 11346.5(a)(10) and 11346.3(b), the Executive Officer has further determined that the proposed regulatory actions will decrease the elimination of jobs within the State of California, and decrease the elimination of existing businesses within the State of California.

The amendments to the Truck and Bus regulation and the Drayage Truck regulation would reduce the compliance obligations for most fleets and businesses affected by the regulations in the next five years. The deferral and new credits included in the amendments would provide more time for the economy to recover and would reduce the total investments required of businesses to comply.

These modifications could have a negative economic impact on retrofit manufacturers and installers and firms that provide repowers because they would likely receive fewer orders in the next two years. However, the proposed modifications intended to encourage early retrofitting would still significantly increase demand for retrofit jobs and businesses. An assessment of the economic impacts of the proposed regulatory action and its effect on California businesses can be found in the Staff Report.

The Executive Officer has made an initial determination that the proposed amendments to the Tractor-Trailer GHG regulation would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. In accordance with Government Code section 11346.3, the Executive Officer

has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California

4. Consideration of Alternatives

Before taking final action on the proposed regulatory actions, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. Alternatives that staff considered are discussed in the Staff Report.

SUBMITTAL OF COMMENTS

Interested members of the public may present comments relating to the proposed amendments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on November 1, 2010. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after November 1, 2010 and received **no later than 12:00 noon on** December 15, 2010, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that the webpage provided above for electronic submittal is for comments on the following on-road and off-road regulations:

- Truck and Bus
- Drayage Truck
- Tractor-Trailer GHG
- Off-Road
- Large Spark Ignition

To ensure that all comments are properly considered and responded to, please identify in the subject heading of each comment letter the regulation(s) for which comments are being submitted.

Please note that under the California Public Records Act (Government Code §6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

1. Truck and Bus Regulation

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39002, 39003, 39500, 39600, 39601, 39602, 39602.5, 39650, 39656, 39658, 39659, 39665, 39666, 39667, 39674, 39675, 40000, 41511, 41752, 41754, 41755, 42400, 42400.1, 42400.2, and 42402.2, 42410, 43000, 43000.5, 43013, 43016, 43018, 43018.2, 43023, 43600. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 40000, 41511, 41752, 41754, 41755, 42400, 42400.1, 42400.2, and 42402.2, 42410, 43013, 43016, 43018, 43023, and 43600

2. Drayage Truck Regulation

This regulatory action is proposed under the authority granted in Health and Safety Code sections 39002, 39003, 39500, 39600, 39601, 39602, 39602.5, 39650, 39656, 39658, 39659, 39665, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, and 42402.2, 42410, 43013, 43016, 43018, 43018.2, 43023, and 43701. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, and 42402.2, 42410, 43013, 43016, 43018, 43023, and 43600.

3. Tractor Trailer GHG Regulation

This regulatory action is proposed under the authority granted in Health and Safety Code sections 38510, 38560, 38560.5, 39600, and 39601. This action is proposed to implement, interpret and make specific Health and Safety Code sections 38560, 38560.5, 38580, and 39600.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice, and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

At the Board meeting, the Board may direct staff to develop additional modifications to the regulation to be considered at a later Board hearing. If directed to do so, ARB will prepare a separate notice of proposed rulemaking that will be published not less than 45 days before the scheduled hearing date.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia
- Documentos disponibles en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

/s/

James N. Goldstene
Executive Officer

Date: October 19, 2010