

Appendix F

Proposed Amendments to the Tractor-Trailer GHG Regulation

PROPOSED AMENDMENTS TO THE TRACTOR-TRAILER GHG REGULATION

The proposed amendments to the Tractor-Trailer GHG regulation would provide additional flexibility for fleets to meet the requirements of the regulation, with minimal impact on the GHG benefits initially approved, consistent with the requirements of Assembly Bill 32. The text of the proposed amended regulation is contained in Appendix C.

Staff's main objective is to provide an opportunity for fleets that were not aware of the regulation to register for an optional large fleet compliance schedule, while maintaining a "level playing field" for those large fleets that already registered. Staff also proposes to ease the burden of compliance by incorporating compliance flexibility provisions within the rule wherever possible.

A. Existing Regulation

The current regulation requires fleets operating in California to utilize tractors and trailers that are either SmartWay certified or retrofitted with SmartWay verified aerodynamic devices and low rolling resistance tires that meet specified fuel efficiency improvements. To comply with the existing requirements, the regulation provides fleet owners of pre-2011 model year trailers with two different options for bringing their pre-2011 model year trailers into compliance: full compliance by January 1, 2013, or register for and participate in a multi-year optional phase-in schedule that gives fleets several years to bring their trailers into compliance. The regulation also delays compliance requirements for several years for certain model year refrigerated-van trailers that will be concurrently impacted by other previously-adopted ARB regulations. Since the technologies required by the regulation are most effective at highway speeds, the regulation also 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 due to their limited operation at highway speeds and/or their limited overall annual mileage.

Since the initial adoption of this regulation, feedback from stakeholders during the implementation phase revealed that several issues affecting fleets needed to be addressed. Some of the issues, among other things, include the incompatibility of certain trailer configurations with existing verified aerodynamic devices, the unavailability of SmartWay verified retread tires, the need to move certain trailers from one location to another without having to meet the aerodynamic device and/or tire requirements, and issues related to reporting requirements. Thus staff is proposing amendments that would provide flexibility in reporting, as well as, provide temporary, short-term exemptions for specific circumstances involving storage trailers, transfer of ownership, and moving local-haul trailers.

B. Proposed Amendments

1. Optional Second Compliance Schedule for Large Fleets

The existing regulation requires large trailer fleets (defined as 21 or more affected trailers) to either have all 2010 or older model year box-type trailers in compliance by January 1, 2013 or register for and participate in an optional compliance phase-in schedule that allows such fleets to phase in compliance between 2010 and 2015, as shown in Option 1 of Table F-1 below. Large fleet owners that have elected to utilize the optional compliance phase-in schedule were required to register with ARB by July 1, 2010. Ninety-five fleets with approximately 180,000 trailers registered by this deadline. However, because the total number of trailers impacted by the current regulation in 2010 is estimated to be approximately 645,000, it is likely that many trailer fleet owners were not aware of the regulation and may have missed the opportunity to participate in the compliance phase-in option, resulting in them having to fully comply with the retrofit requirements by January 1, 2013.

To address this issue, staff proposes to modify section 95307, *Optional Trailer Fleet Compliance Schedules* to provide large fleet owners another optional compliance phase-in schedule, as shown in Option 2 of Table F-1 below. Large fleet owners that opt to use Option 2 would be subject to a reporting deadline of July 1, 2011 and, as shown in Table F-1, a phase-in beginning with 20 percent of their fleets by the end of 2011, and 100 percent by the end of 2015.

Table F-1: Optional Trailer Fleet Compliance Schedule

| <i>Compliance Deadline, as of January 1</i> | <i>Required Cumulative Percent Compliance</i> | |
|---|---|----------------------------|
| | <i>Option 1 (Current)</i> | <i>Option 2 (Proposed)</i> |
| 2011 | 5% | --- |
| 2012 | 15% | 20% |
| 2013 | 30% | 40% |
| 2014 | 50% | 60% |
| 2015 | 75% | 80% |
| 2016 | 100% | 100% |

2. Additional Reporting Flexibility

The current regulation requires owners of trailer fleets that elect to utilize either the large fleet or small fleet optional compliance phase-in schedule to submit a one-time, multi-year compliance plan at the time they register for those compliance schedules. The compliance plan must outline which specific, pre-2011 model year trailers will be brought into compliance during each year of the optional compliance phase-in schedule. Representatives of large trailer fleets have indicated to staff that developing an accurate multi-year compliance plan is impractical because they cannot accurately predict which specific trailers in their fleets they will bring into compliance each year.

Staff agrees that this requirement may be problematic for some fleets and therefore proposes to add new subsection 95307(f), *Reporting Requirements*, which would allow trailer fleet owners 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. It should also be noted, however, that trailer fleet owners would still be allowed to submit a one-time, multi-year compliance plan for their fleet should they so choose.

3. Exemption of Storage Trailers

The current regulation requires trailers that are exclusively or primarily used for storing goods at a single location for extended periods of time to be retrofitted with aerodynamic devices and low rolling resistance tires when traveling on California highways, despite the fact that they rarely travel on highways. An owner could register a storage trailer as a local-haul trailer, which would alleviate the owner's requirement to install aerodynamic technologies, but the trailer owner would still be required to install low rolling resistance tires and would not be able to move such trailer beyond 100 miles of its designated local-haul base. Another option would be to pull the storage trailer with an exempt short-haul tractor from location to location without threat of violation, but this requires the owner of the trailer to own or secure the services of a short-haul tractor.

Staff agrees that the current regulation does not address the unique circumstances involving storage trailers. Staff therefore proposes to modify subsection 95305(e), *Exemptions* 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 be provided the ability to relocate storage trailers as proposed for local-haul trailers described in section 7, below.

4. Compliance Delay for Certain Trailers

The current regulation requires affected box-type trailers to utilize SmartWay verified aerodynamic technologies to achieve the specified improvement in aerodynamic efficiency. Such technologies presently include front fairings, side skirts, trailer end fairings, and an undercarriage device. Manufacturers and fleets have indicated that certain configurations of trailers would prohibit the effective use of these available SmartWay verified technologies, such as those trailers with rear rollup doors and side doors with hydraulic lifts.

Staff recognizes that there are some limited trailer configurations for which there are currently no SmartWay verified technologies available. Therefore, staff is proposing to add new subsection 95305(i), *Trailer Aerodynamic Equipment Delay* to provide a limited term exemption from the aerodynamic technology requirements of the regulation for trailers that are configured such that none of the SmartWay verified aerodynamic

technologies can be effectively installed on them. The exemption would require Executive Officer approval, and would have to be renewed annually. Once there are SmartWay verified technologies available for these specific trailer configurations, the trailers would no longer be eligible for the exemption.

5. Delayed Compliance Provision for 2009 Model Year Refrigerated Van Trailers

Since refrigerated van trailers would be concurrently impacted by the current regulation and the previously adopted “Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate” (TRU rule), staff developed a special provision that would allow the delay of retrofits of certain in-use refrigerated van trailers. Specifically, the refrigerated fleet extended compliance provision in the current regulation applies to 2003 through 2008 model year refrigerated van trailers equipped with 2003 and newer model year TRUs. However, staff inadvertently excluded 2009 model year refrigerated van trailers (equipped with 2003 model year or newer TRUs) from the delayed compliance provision.

Recognizing this oversight, staff therefore proposes to modify subsection 95303(b), Trailer Requirements, to allow 2009 model year refrigerated van trailers (equipped with 2003 model year or newer TRUs) to comply with the GHG regulatory requirements using the extended compliance provision. These trailers would have until the end of 2019 to be brought into compliance with the regulation.

6. Aerodynamic Equipment Modifications

The Tractor-Trailer GHG regulation requires affected trailers to either be U.S. EPA SmartWay certified trailers or retrofitted with SmartWay verified technologies. To date, SmartWay specifications only exist for dry van trailers in a standard dual axle configuration. However, the Tractor-Trailer GHG regulation requires fleets to use these technologies on other trailer configurations, such as refrigerated van trailers. Any trailers that are configured differently than typical dry van trailers may present installation difficulties that will in turn require modifications to SmartWay verified technologies. This is a concern because the current regulation does not allow such modifications.

To address this issue, staff proposes to modify subsections 95303(b)(1), 95303(b)(2), and 95303(b)(3) to allow modifications to SmartWay verified technologies for “non-typical” trailers, as discussed above. Such modifications would be subject to advance approval by the Executive Officer. The Executive Officer will base his or her determination upon information submitted that demonstrates the proposed modifications would not significantly increase the aerodynamic drag of the technology.

7. Transporting Local-Haul Trailers

Registered local-haul trailers are presently exempted from the aerodynamic equipment requirements of the regulation provided they operate within a 100-mile radius of their

local-haul base. Thus if a trailer owner plans to change the base operation location of a local-haul trailer to a new location that is more than 100 miles away, the current regulation does not exempt this trailer from meeting the retrofit requirements.

To require the retrofit of aerodynamic devices and tires on local-haul trailers would be unnecessarily costly and would provide no emissions benefit. Staff therefore proposes to modify section 95305, *Exemptions*, to exempt local-haul trailers from the retrofit requirements when they travel outside of their base area, as long as these trailers are transported empty of freight.

It has been argued that if an owner plans to relocate one of these trailers, it would make more “economical sense” if, at the same time, it was also loaded with freight. Such a trailer would not be eligible for the exempt status described above, but staff believes such a practice should be allowed on a limited basis. Staff therefore proposes to add a provision in subsection 95305(f) that would waive the retrofit requirements for loaded local-haul trailers that travel outside the 100-mile area, via the issuance of a relocation pass. Up to four relocation passes per year per trailer could be issued, with each pass not to exceed three consecutive days. Similarly, such pass would also be available to storage trailers moving from one storage location to another. Reporting requirements would apply.

8. Three-Day Pass for Non-compliant Tractors

There are some fleets that infrequently travel into California or typically operate with trailers that are exempt. Staff believes a limited exemption is warranted for such fleets that infrequently transport goods in California provided that their owners request and obtain advanced Executive Officer approval.

Therefore, staff proposes to add a provision in subsection 95305(h) that would allow tractor owners to request and obtain a temporary exemption (pass) from the regulation, not to exceed three consecutive days. Only one pass would be issued to an owner per year. Furthermore, only one tractor per fleet, sharing a U.S. Department of Transportation, motor carrier, or International Registration Plan number, would 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. Staff believes this exemption is only needed for the first several years of the regulation and can be sunsetted once fleets that are typically unaffected become aware of this regulation. Thus, staff proposes to sunset this provision on January 1, 2015.

9. Transfer of Ownership Pass for Trailers

The regulation currently does not provide any exemptions for affected trailers involved in a transfer of ownership. Staff has learned that it is common industry practice, in a transfer of ownership situation, for the seller of a trailer to transport freight in such trailer while delivering it to the buyer’s location. Under the existing regulation, the owner(s) of this trailer would be subject to the retrofit requirements.

Staff believes that an exemption is warranted for those cases where the trailer is merely passing through California to the buyer's location. Therefore staff proposes to include a provision in subsection 95305(g), to allow sellers and buyers of affected trailers to obtain a temporary exemption for trailers involved in a transfer of ownership while being transported from the seller's location to the buyer's location. This transfer of ownership pass would be valid for up to three consecutive days, or for an alternate time period as approved by the Executive Officer.

10. Delayed Compliance for Low Rolling Resistance Tire Requirements for Pre-2011 Model Year Tractors and Trailers

The current regulation requires pre-2011 model year tractors to use SmartWay verified tires by January 1, 2012, and pre-2011 model year trailers to use SmartWay verified tires by either January 1, 2013, or by the deadlines specified in the optional compliance schedules. Affected stakeholders have indicated that fleets rely heavily on the ability to use retreaded tires, especially on trailers. Since the U.S. EPA SmartWay Program has not yet completed its efforts to develop standards for SmartWay retreads, a delay in the implementation date is warranted to allow time for fleets to retread and use their existing tires, and then transition to using SmartWay verified retreads once they become available. Also, the delay would allow time for fleets to accumulate sufficient numbers of SmartWay verified tire casings to use for retreads.

Staff therefore proposes to amend subsections 95303(a)(3) and 95303(b)(3) to allow pre-2011 model year tractors and trailers additional time to be equipped with SmartWay verified low rolling resistance tires. Pre-2011 model year tractors would have an additional year to comply, and pre-2011 model year trailers would be allowed up to four additional years to comply. Model year 2003 through 2009 refrigerated-van trailers equipped with 2003 or subsequent model year transport refrigeration units would still be required to convert their tires to SmartWay verified tires beginning January 1, 2018.

11. Exemption for Open Shoulder Drive Tires

The current regulation requires 2011 and subsequent model year 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 model year tractors using open-shoulder drive tires. This exemption would sunset on January 1, 2013.

12. Disclosure Language and Recordkeeping

The 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 proposes to clarify, in subsection 95303(i), that only California-licensed vehicle dealers selling affected tractors or trailers are responsible for providing the specified

disclosure language, and in subsections 95302(a)(42), that lessors of affected tractors and trailers are responsible for providing specified disclosure language. In addition, staff is proposing to add a requirement in new section 95311 that sellers and lessors must maintain a record of the written disclosure for three years after the date of sale or lease.

13. Other Amendments

Staff is proposing other relatively minor amendments to clarify certain definitions and to reorganize the regulatory language to include the proposed amendments.

