

Attachment 1

MODIFIED REGULATORY LANGUAGE FOR PUBLIC COMMENT

REGULATION TO REDUCE GREENHOUSE GAS EMISSIONS FROM HEAVY-DUTY VEHICLES

[Note: This document shows the modifications to the originally proposed regulation to reduce greenhouse gas emissions from heavy-duty vehicles, which was originally released to the public on October 24, 2008. All of the text shown below in California Code of Regulations, title 17, sections 95300-95311 is new language. The modifications to the originally proposed language are shown in ~~strike through~~ to show proposed deletions, and underline to show proposed additions.]

Adopt new ~~S~~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 cause 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:

(1) local-haul trailers and the tractors pulling local-haul trailers,

(2) local-haul tractors and the trailers pulled by local-haul tractors,

(3) short-haul tractors and the trailers pulled by short-haul tractors, and

(4) drayage tractors and the trailers pulled by drayage tractors.

~~(e)~~(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 These vehicles may 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)~~(2) *“Box-type trailer”* means a dry-van trailer or refrigerated-van trailer that is not a drop-frame trailer.
- ~~(4)~~(3) *“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,~~ for compensation, arranges or offers to arrange the transportation of property by a motor carrier. A motor carrier, or person who is an employee or bona fide agent of a carrier, is not a broker within the meaning of this section when it arranges or offers to arrange the transportation of shipments which it is authorized to transport and which it has accepted and legally bound itself to transport.
- ~~(5)~~(4) *“Cab side extender”* means a flow control device placed vertically on the rear side of the tractor ~~that fans out slightly and~~ that reduces the space between the tractor and trailer.
- (5) *“California-based broker”* means a broker that maintains a business location in California.
- (6) *“California-based shipper”* means a shipper that operates a facility in California where freight is located prior to its transportation.
- ~~(6)~~(7) *“Chassis trailer”* means a trailer composed of a simple chassis for the mounting of a containerized load.
- (8) *“Compliance year”* means the calendar year in which a fleet owner may bring trailers into compliance to meet the minimum fleet conformance threshold that takes effect on January 1 of the following year.

- (9) “Compliant trailer” means a trailer that complies with the equipment requirements set forth in subsection 95303(b). For the purposes of the optional trailer fleet compliance schedules, to bring a trailer into compliance means to either retrofit the trailer with the necessary equipment to comply with the equipment requirements set forth in subsection 95303(b), as applicable, or replace the trailer with another trailer that meets the equipment requirements set forth in subsection 95303(b), as applicable.
- (10) “Conformance” means meeting or exceeding the minimum fleet conformance thresholds defined section 95307, Optional Trailer Fleet Compliance Schedules, Tables 1 and 2. A conformance threshold defines the percentage of trailers in a fleet that are required to be compliant in accordance with a large fleet compliance schedule or a small fleet compliance schedule.
- ~~(7) “Container” means a simple, enclosed box of standardized sizes, used designed for intermodal transport.~~
- ~~(8)~~(11) “Curtain-side trailer” means a flatbed trailer with tarp sides that can be loaded from the sides, top, or rear.
- (12) “Delayed compliance trailer” means a trailer for which compliance may be delayed until January 1, 2017, pursuant to subsection 95307(b)(4).
- ~~(9)~~(13) “Dispatch” means to contact vehicle owners, coordinate delivery, pickup, and drop-off schedules of such vehicles; and monitor the delivery of freight from such these vehicles.
- ~~(10)~~(14) “Dispatch driver” means the driver of a HD tractor that has been dispatched by a motor carrier or broker.
- (15) “DOORS” (Diesel On-road and Off-road Reporting System) is the on-line reporting tool for this subarticle. DOORS is also the reporting tool for the Regulation for In-Use On-Road Diesel Vehicles and the Regulation for In-Use Off-Road Diesel Vehicles.
- ~~(11)~~(16) “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)~~(17) “Driver” means a person who physically operates a HD tractor.

- ~~(13)~~ (18) *“Drop-frame trailer”* means an enclosed rectangular trailer with a lowered deck that is lower to the ground in the area between the trailer hitch and the trailer wheels, starting just behind the bed plate to create more cargo space.
- ~~(14)~~ (19) *“Dry-van trailer”* means an enclosed rectangular non-climate controlled trailer.
- (20) *“Early compliance trailer”* means a trailer that has been brought into compliance with the equipment requirements set forth in subsection 95303(b)(3) as applicable, before January 1, 2010, and for which the owner receives credit, in accordance with the *early compliance option* set forth in subsection 95307(b)(4), that may be used to delay the compliance of delayed compliance trailers.
- (21) *“Emergency vehicle”* means a vehicle as defined in California Vehicle Code Section 165.
- ~~(15)~~ (22) *“Fairing”* means a structure with smoothly contoured solid surfaces that reduces the wind resistance of the objects they cover.
- ~~(16)~~ *“Flatbed Trailer”* means a trailer consisting of a completely open platform with no sides or railings.
- (23) *“Fleet”* means one or more trailers owned by a person, business, or government agency. A fleet consists of the total number of 53-foot or longer box-type trailers under common ownership or control even if they are part of different subsidiaries, divisions, or other organizational structures of a company or agency.
- ~~(17)~~ (24) *“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)~~ (25) *“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)~~ (26) *“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)~~ (27) *“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)~~(28) “Gross vehicle weight rating” or “GVWR” means the GVWR as defined in California Vehicle Code Section 350.
- ~~(22)~~(29) “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)~~(30) “Highway” means a “highway” as defined in California Vehicle Code section 360.
- ~~(24)~~(31) “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)~~ “Lessee” means a “lessee” as defined in section 371 of the Vehicle Code.
- ~~(32)~~ “Livestock trailer” means a semitrailer designed to transport live animals.
- ~~(26)~~(33) “Local- haul base” means the location where a ~~short-haul tractor~~ local-haul tractor or local-haul trailer is garaged, and maintained, and ~~the location from where a short-haul trailer is routinely dispatched~~.
- ~~(34)~~ “Local-haul tractor” means a HD tractor that travels exclusively within a 100 mile radius of its local-haul base.
- ~~(35)~~ “Local-haul trailer” means a 53-foot or longer box-type trailer that travels exclusively within a 100 mile radius of its local-haul base.
- ~~(27)~~(36) “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)~~(37) “Military tactical support vehicle” means a “Military Tactical Support Vehicle” as defined in title 13, California Code of Regulations (CCR), section 1905.
- ~~(29)~~(38) “Motor carrier” means a “Motor carrier” as defined in California Vehicle Code Section 408. ~~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:~~

(39) “Owner” of a tractor or trailer means the person or persons 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 (presumed at the time of any citation to be the person or persons identified as the owner on the registration document or title carried on the vehicle), except in the following circumstances:

(A) a person who is financially and contractually responsible for maintaining the tractor or trailer is the owner for purposes of this subarticle if the registered owner of the vehicle clearly demonstrates the person’s maintenance responsibilities include responsibility for installing and maintaining the tires and aerodynamic technologies required by this subarticle. Subsections (C), (D) and (E) and not this subsection apply to tractors or trailers that are leased.

(B) for a tractor or trailer owned by the federal government and not registered in any state or local jurisdiction, the owner means the branch, agency or other organization within the federal government that operates the tractor or trailer, that is required to maintain accountability for the vehicle, or that is shown by the accountable entity to be responsible for the tractor’s or trailer’s maintenance.

(C) for a leased tractor, the person or persons 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 (usually the lessor) is the owner for purposes of this subarticle, except that the lessee of the tractor is the owner for purposes of this subarticle if the lease includes the following statement:

“The lessee of this heavy-duty tractor understands that when using a heavy-duty tractor to pull a 53-foot or longer box-type trailer on a California highway, the heavy-duty tractor must be compliant with sections 95300 – 95311, title 17, California Code of Regulations, and that it is the responsibility of the lessee to ensure this heavy-duty tractor is compliant. The regulations may require this heavy-duty tractor to have low rolling resistance tires that are U.S. Environmental Protection Agency (EPA) Verified SmartWay Technologies prior to current or future use in California, or may entirely prohibit use of this tractor in California if

it is a model year 2011 or later tractor and is not a U.S. EPA Certified SmartWay Tractor.”

(D) for a leased trailer that is leased prior to January 1, 2013, the person or persons 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 (usually the lessor) is the owner for purposes of this subarticle, except that the lessee of the trailer is the owner for purposes of this subarticle if both of the following requirements are met:

1. The lessor demonstrates that the lessor provided the lessee with actual written notice that clearly informed the lessee about the requirements of this subarticle and about the lessee’s obligation under terms of the lease to ensure the trailer complies with those requirements prior to use of the trailer in California. This requirement may be satisfied by inclusion of the following statement in the lease agreement:

“The lessee of this box-type trailer understands that when using a heavy-duty tractor to pull a 53-foot or longer box-type trailer on a California highway, the box-type trailer must be compliant with sections 95300 – 95311, title 17, California Code of Regulations, and that it is the responsibility of the lessee to ensure this box-type trailer is compliant. The regulations may require this trailer to have low rolling resistance tires and aerodynamic technologies that are U.S. Environmental Protection Agency Verified SmartWay Technologies prior to current or future use in California.”

2. The lessor demonstrates that either:

- a. the lease agreement permits the lessee to modify the trailer to be compliant with the requirements of this subarticle; or
- b. the lessor provides a reasonable method to exchange the trailer for one that is compliant with this subarticle.

(E) for a leased trailer that is leased on or after January 1, 2013, the person or persons 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 (usually the lessor) is the owner for purposes of this subarticle, except that the lessee of the trailer is the owner for purposes of this subarticle if the lease agreement includes the following statement:

“The lessee of this box-type trailer understands that when using a heavy-duty tractor to pull a 53-foot or longer box-type trailer on a California highway, the box-type trailer must be compliant with sections 95300 – 95311, title 17, California Code of Regulations.; and that it is the responsibility of the lessee to ensure this box-type trailer is compliant. The regulations may require this trailer to have low rolling resistance tires and aerodynamic technologies that are U.S. Environmental Protection Agency Verified SmartWay Technologies prior to current or future use in California.”

(F) For purposes of this subarticle, the terms “lease,” “leased,” “lessor,” and “lessee” mean the same as “rental agreement,” “rented,” “owner of the rented vehicle,” and “renter,” respectively.

~~(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)~~(40) *“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)~~(41) *“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) “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.~~

(42) “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.

(43) “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.

~~(35)~~ (44) “Semitrailer” means a “Semitrailer” as defined in section 550 of the California Vehicle Code.

~~(36)~~ (45) “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)~~ (46) “Short-haul tractor” means a HD tractor that either travels less than 50,000 miles in a calendar per year or travels exclusively within a 100-mile radius of its local haul base.

~~(39) “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.~~

(47) “Sleeper cab” means a HD tractor body that has a compartment containing a bed located behind the driving compartment.

~~(40)~~ (48) “Tractor” means a “Truck Tractor” as defined in section 655 of the California Vehicle Code.

(49) “Trailer” means a semitrailer.

~~(41)~~ (50) “Trailer side skirt” means a fairing that extends down from the sides bottom of the trailer to cover part of the open space between the trailer frame and the ground tractor and the rear wheels.

~~(42)~~ (51) “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)~~ (52) “U.S. EPA Certified SmartWay Tractor” means a tractor that has been certified by the United States Environmental Protection Agency (U.S. EPA) to meet the technical specifications and requirements of the U.S. EPA SmartWay Transport Partnership Program.

~~(45)~~ (53) “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)~~ (54) “U.S. EPA SmartWay Transport 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 Transport 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 from the SmartWay program office at 2000 Traverwood, Ann Arbor, Michigan 48105; and at the U.S. EPA SmartWay website at <http://www.epa.gov/smartway/>.

~~(55)~~ “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 have 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) Except as provided in subsection 95305, Exemptions, Bbeginning 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) Except as provided in subsection 95305, Exemptions, Bbeginning 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) Except as provided in subsection 95305, Exemptions, Bbeginning 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

Except as provided in subsection 95305, Exemptions, Bbeginning 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 SmartWay Technologies, and trailer side skirts that are U.S. EPA Approved SmartWay Technologies, and either a front trailer fairing that is a U.S. EPA Approved SmartWay Technology or a rear trailer fairing that is a U.S. EPA Approved SmartWay Technology for dry-van trailers ; or~~
 - ~~2. tires that are U.S. EPA Approved 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.~~

(B) equipped with both:

1. tires that are U.S. EPA Verified SmartWay Technologies; and
2. 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

Except as provided in subsection 95305, Exemptions, ~~B~~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 SmartWay Technologies, and trailer side skirts that are U.S. EPA Approved SmartWay Technologies for dry-van trailers, or~~
- ~~2. tires that are U.S. EPA Approved 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.~~

- (B) equipped with both:

1. tires that are U.S. EPA Verified SmartWay Technologies; and
2. 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) A 2010 or previous model year 53-foot or longer box-type trailer may not travel on a highway within California after the compliance deadlines in subsection (b)(3)(B) unless such trailer is either a dry-van trailer that meets the requirements of subsections (b)(1)(A) or (b)(1)(B),₁ 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:~~

- ~~1. by the applicable compliance dates in section 95307, *Optional Trailer Fleet Compliance Schedule*, if such trailer is included in the fleet of trailers participating in the *Optional Trailer Fleet Compliance Schedule*, or;~~
- ~~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*~~

(B) Compliance deadlines: A 2010 or previous model year 53-foot or longer box-type trailer must meet the requirements 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 transport refrigeration unit engine: either by
 - a. January 1, 2018 for a 2003 or 2004 model year trailer; or
 - b. January 1, 2019 for a 2005 or 2006 model year trailer; or
 - c. January 1, 2020 for a 2007 or 2008 model year trailer.

(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 set forth 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 available information if available to authorized enforcement personnel identified in section 953098:

- (A) driver's license;
- (B) vehicle odometer reading, if applicable the tractor is an exempt short-haul tractor;
- (C) tractor registration;
- (D) trailer registration;
- (E) origin of freight being transported, or to be transported;
- (F) destination of freight being transported, or to be 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 a HD tractors or a and 53-foot or longer box-type trailers for travel on a highway in California if the tractor or trailer that complies with the operating requirements and compliance deadlines set forth in subsections (a) and (b);

(B) provide the following information to ~~the a dispatcher~~ dispatched driver who will be travelling on highways in California :

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 a HD tractors or a and 53-foot or longer box-type trailers for travel on a highway in California if the tractor or trailer that complies with the operating requirements and compliance deadlines set forth in subsections (a) and (b);

(B) provide the following information to ~~the a dispatcher~~ dispatched driver who will be travelling on highways in California :

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 from its California facility or facilities 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 tractor may, pursuant to section 95306, *Short-Haul Tractor and Short-Haul Trailer Exemption Requirements*, be is exempted from the requirements of subsections 95303 (a)(1), 95303 (a)(2), and 95303(a)(3) if its owner complies with the requirements in section 95306, *Short-Haul and Local-Haul Tractor and Local-Haul Trailer Exemption Requirements*.~~ 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 local-haul tractor is exempt from the requirements of subsections 95303 (a)(1), but still must comply with the requirements of subsections 95303 (a)(2) and 95303 (a)(3), if its owner complies with the requirements of section 95306, *Short-Haul and Local-Haul Tractor and Local-Haul Trailer Exemption Requirements*.
- (b)-(c) A short-haul A local-haul trailer may, pursuant to section 95306, *Short-Haul Tractor and Short-Haul Trailer Exemption Requirements*, is be exempted from the requirements of sections 95303(b)(1)(A), 95303(b)(1)(B)2, 95303(b)(2)(A), and 95303(b)(2)(B)2, but still must comply with the requirements of sections 95303 (b)(1)(B)1 and 95303 (b)(2)(B)1 if its owner complies with the requirements of section 95306, *Short-Haul and Local-Haul Tractor and Local-Haul Trailer Exemption Requirements*. , provided it operates only within a 100 mile radius of its local-haul base.
- (e)-(d) A 53-foot or longer box-type trailer is exempt from the requirements of subsection 95303(b) while it is being pulled by a short-haul HD tractor that is exempt under subsection 95305(a). ~~pulled by a short-haul tractor that has been exempted 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.

- (e) A 53-foot or longer box-type trailer is exempt from the requirements of subsections 95303(b)(1)(A), 95303(b)(1)(B)2, 95303(b)(2)(A), and 95303(b)(2)(B)2, but still must comply with the requirements of subsections 95303(b)(1)(B)1 and 95303(b)(2)(B)1, while it is being pulled by a local-haul tractor that is exempt under subsection 95305(b).
- (f) A 2011 or subsequent model year sleeper cab HD tractor is exempt from the requirements of subsection 95303(a)(1), but still must comply with the requirements of subsection 95303 (a)(2), while it is pulling a local-haul trailer that is exempt under subsection 95305(c).
- ~~(d)~~ (g) 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 and Local-Haul Tractor and ~~Short~~Local-Haul Trailer Exemption Requirements*

- (a) ~~Application Requirements: To qualify for any exemptions in subsections 95305(a), 95305(b) or 95305(c), 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 all the information and statements identified in subsections 95306 subsections (b) through (gf) and must comply with subsections (g) through (o). 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 or local-haul tractor owner's name, and if a business entity or governmental agency owns the tractor, the responsible official and title (if applicable)
 - (2) ~~Short~~Local-haul trailer owner's name, and if a business entity or governmental agency owns the trailer, the responsible official and title (if

applicable)

(3) Name of owner's company, corporation, or governmental agency (if applicable)

(4) Corporate parent (if applicable)

(5) Motor carrier identification number and type

~~(6)~~ IRP registration number (if applicable)

~~(7)~~(6) Street address of owner or owner's company including city, state or province, zip code, colonia (Mexico only), and country

(7) Mailing address including city, state or province, zip code, colonia (Mexico only), and country

(8) Physical address of location where records pertaining to the applicable compliance schedule will be maintained including city, state or province, zip code, colonia (Mexico only), and country

(9) Name of contact person

~~(8)~~(10) Telephone number of owner or owner's company

~~(9)~~(11) Email address of owner or owner's company (if available)

~~(10)~~(12) Company taxpayer identification number, (if applicable)

(13) DOORS identification number of corporate parent, if one has been obtained

(c) Local-Haul Base Information for Owners of Local-haul Tractors or Trailers (an owner may have multiple local-haul bases):

(1) Local-haul base contact's name

(2) Contact's title

(3) Street address of local-haul base including city, state, zip code, colonia (Mexico only), and country

(b) Telephone number of local-haul base

(d) Short-haul or Local-haul Tractor Fleet Information. For each tractor to be exempted, ~~provide~~ the following information:

- (1) Type of exemption applied for:
 - (A) Limit annual miles traveled to 50,000 (short-haul); or
 - (B) Limit total area of operation to within a 100 mile radius from its local-haul base. (local-haul).
- (2) Tractor identification number (vehicle identification number (VIN))
- (3) Tractor make
- (4) Tractor model
- (5) Tractor model year
- (6) State or province of registration
- (7) Country of registration
- (8) Registration type (state, IRP, temporary, seasonal, monthly, or other)
- ~~(7)~~(9) License plate number
- ~~(8)~~(10) For short-haul tractors: Odometer reading (if annual miles traveled is to be limited)
- (11) For local-haul tractors: tractor's local-haul base street address, including city, state, and zip code

(e) Local-haul Trailer Fleet Information. For each trailer to be exempted, provide the following information:

- (1) Trailer type (dry van or refrigerated van)
- (2) Trailer identification number (vehicle identification number (VIN))
- (3) Trailer make
- (4) Trailer model
- (5) Trailer model year
- (6) State or province of registration
- (7) Country of registration

(8) Registration type (State, IRP, Temporary, Seasonal, Monthly, or Other)

~~(7)~~(9) License plate number

(10) Trailer's local-haul base street address, including city, state, and zip code

~~(f)~~ For trailers and for all tractors limited in operation to a 100-mile radius from their local haul base, provide a street map of the geographic area where tractors will be operating and the location (address) of the local haul base(s).

~~(g)~~(f) A dated written submittal by the owner with the information required by subsections (b) through (e) and include one of the following statements at the end of the application, above the applicant's signature and date:

(1) For all local-haul trailers and for trucktractors 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's 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 short-haul 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 for more than 50,000 miles per year 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."

(g) A local-haul exemption obtained under subsections 95305(b) or (c) will remain in effect as long as the owner and the exempt trailer or tractor are in compliance with the requirements of this section. The owner of an exempt local-haul tractor

or trailer must notify the Executive Officer if the information submitted in accordance with subsections (b) through (f) has changed, and must submit the updated information to the Executive Officer.

- ~~(h)~~ An exemption approved 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 at least one month prior to the expiration date of the exemption.
- (h) For a local-haul tractor or trailer that is removed from an owner's local-haul fleet or is otherwise no longer exempt under subsection 95305(b) or (c), the owner must notify the Executive Officer and update the local-haul tractor or trailer information submitted in accordance with subsections (d) and (e) to reflect this change in status prior to change in ownership of the tractor or trailer, or prior to the trailer travelling on California highways, whichever occurs first.
- (i) For a short-haul tractor that is removed from an owner's short-haul tractor fleet or is otherwise no longer exempt under subsection 95305(a), the owner must notify the Executive Officer and update the short-haul tractor information submitted in accordance with subsections (d) to reflect this change in status prior to change in ownership of the tractor, or prior to the tractor travelling on California highways, whichever occurs first. A tractor that is removed from the owner's short-haul tractor fleet or that for any other reason loses its exempt status under subsection 95305(a) is ineligible for the short-haul exemption under subsection 95305(a) for 36 months from the date its exempt status was lost.
- (i) A short-haul exemption obtained under subsection 95305(a) will remain in effect for a period of 1 year from the date that the information required in subsections 95306(b) through (f) is submitted to the Executive Officer if the owner and the exempt tractor are in continuing compliance with the requirements of this section. To extend the exemption for an additional 1 year, the owner must submit the tractor's current odometer readings prior to, but no more than 30 days before, the expiration date of the exemption.
- ~~(j)~~(k) The driver of an exempt short-haul or local-haul HD tractor, or a HD tractor pulling an exempt local-haul trailer must, upon demand, provide the following information to authorized enforcement personnel identified in section 9530995308:
- (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 a motor carrier, the motor carrier information defined listed in subsection 95303(g)(1)(B).
- (7) If dispatched by a broker, the broker information defined listed in subsection 95303(f)(1)(B).

(8) Vehicle identification number

- (l) 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.
- (m) The use of a short-haul tractor that is exempt under subsection 95305(a) in excess of 50,000 miles in a year is a violation of this subarticle.
- (n) The use of a local-haul tractor that is exempt under subsection 95305(b) in an area farther than 100 miles from the vehicle's local-haul base is a violation of this subarticle.
- (o) The use of a local-haul trailer that is exempt under subsection 95305(c) in an area farther than 100 miles from the vehicle's local-haul base is a violation of this subarticle.

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 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 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 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) Trailer Fleet Compliance Schedule Applicability

- (1) 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 in this subsection.

(2) Trailer fleet size determination. For purposes of this section, fleet size is the total of all 53-foot or longer box-type trailers within the owner's fleet, including:

(A) trailers that do not operate in California, and

(B) trailers that operate in California, including but not limited to:

1. existing compliant trailers,

2. non-compliant trailers,

3. trailers exempted in accordance with section 95305, Exemptions, and

4. refrigerated van trailers that are eligible for the compliance deadlines set forth in section 95303(b)(3)(B)2.

(3) Applicable Compliance Schedules.

(A) A fleet owner with a trailer fleet size of 21 or more trailers, as determined in accordance with subsection (a)(2) above, may only participate in the large fleet compliance schedule, specified in subsection (b).

(B) A fleet owner with a trailer fleet size of 20 or fewer trailers has the option of participating in either the large fleet or small fleet compliance schedule, specified in subsections (b) and (c), respectively.

(a)(b) Large Fleet Compliance Schedule

(1) Minimum fleet ~~compliance~~conformance thresholds (Table 1): A trailer owner participating in the large fleet compliance schedule must ensure that the percentage of compliant trailers on the compliance plan base list, as defined in subsection ~~(e)~~(d)(3), is equal to or greater than:

(A) 5 percent ~~by December 31, 2010~~beginning January 1, 2011,

(B) 15 percent ~~by December 31, 2011~~beginning January 1, 2012,

(C) 30 percent ~~by December 31, 2012~~beginning January 1, 2013,

(D) 50 percent ~~by December 31, 2013~~beginning January 1, 2014,

(E) 75 percent ~~by December 31, 2014~~beginning January 1, 2015, and

(F) 100 percent by ~~December 31, 2015~~ beginning January 1, 2016.

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

| Compliance Year (Y) | Minimum Fleet Compliance <u>Conformance</u> Threshold (P _Y) | <u>Conformance Threshold</u> <u>Deadline</u> |
|---------------------|---|---|
| 2010 | 5% | <u>January 1, 2011</u> |
| 2011 | 15% | <u>January 1, 2012</u> |
| 2012 | 30% | <u>January 1, 2013</u> |
| 2013 | 50% | <u>January 1, 2014</u> |
| 2014 | 75% | <u>January 1, 2015</u> |
| 2015 | 100% | <u>January 1, 2016</u> |

- (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, electronically or in a document package entitled "Large Fleet Compliance Plan," by July 1, 2010. This ~~document~~ submittal must include the following:
- (A) Statement of intent, in accordance with subsection ~~(e)~~ (d) (1).
 - (B) Trailer fleet list, in accordance with subsection ~~(e)~~ (d) (2).
 - ~~(C)~~ C Copy of registration for each trailer listed on the trailer fleet list.
 - ~~(D)~~ (C) Large fleet compliance plan base number, calculated in accordance with subsection ~~(d)~~ (e) (1).
 - ~~(E)~~ (D) Compliance plan base list, in accordance with subsection ~~(e)~~ (d) (3).
 - ~~(F)~~ (E) Annual ~~compliance~~ conformance number for each compliance year, calculated in accordance with subsection ~~(d)~~ (e) (5).
 - ~~(G)~~ (F) Annual ~~compliance~~ conformance commitment list for each compliance year, in accordance with subsection ~~(e)~~ (d) (4).
 - ~~(H)~~ (G) Early compliance option reporting, if applicable: If a trailer owner elects to delay the compliance of trailers retrofits and retirements in accordance with subsection ~~(a)~~ (b) (4), ~~Early compliance option~~, such owner must submit the following trailer information within the compliance plan:
 1. Early compliance trailer number: The number of early compliance trailers determined in accordance with subsection (b)(4), that are ~~in compliance 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 clearly 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. In lieu of purchase receipts, other documentation may also be acceptable as determined by the Executive Officer.~~

~~4.3. Delayed compliance trailer number, calculated in accordance with subsection (d)(e) (3).~~

~~5.4. Delayed compliance trailer list: A trailer owner participating in the early compliance option must clearly 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~~the annual conformance commitments lists reported scheduled for compliance years 2013, 2014, and 2015~~four, five, and six,~~ electronically or by submitting a document titled, "Large Fleet Compliance Plan Revision," by July 1, 2013. By submitting this document, Although this allows a trailer owner may re-designate to redistribute trailers retrofit and retirement commitments among the final three annual conformance commitment lists, within compliance years four, five, and six, so long as the number of trailers the trailer owner may not alter the number of trailers identified on each list that are brought into compliance each compliance year does not change. If participating in the early compliance option, a trailer owner may also redistribute trailers amongst the annual conformance commitment list for compliance years 2013, 2014, and 2015 and the list of delayed compliance trailers.
- (4) Early compliance option: ~~Under the early compliance option~~Subject to the requirements and limitations set forth in this subsection, for every one early compliance trailer in an owner's fleet, a trailer owner may delay the retrofit or retirement~~replacement of 1.5 nonconforming non-compliant trailers until December 31, 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 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 number of early delayed compliance trailers, as calculated in accordance with subsection (e)(4): A trailer owner participating in the early compliance option may not delay the compliance of more trailers than~~The number of early compliance trailers within a fleet may not exceed the equivalent of 2030 percent of the sum of: 1) all trailers that the owner elects to bring into compliance under the large fleet compliance schedule within the compliance base and 2) the total number of early compliance trailers within the fleet that are in compliance before January 1, 2010. 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~~before January 1, 2017.
- (C) Early compliance option report: To participate in the early compliance option, a trailer owner must submit all information required by subsection ~~(a)(b)(2)(HG), *Early compliance option report*, by July 1, 2010,~~as part of in the large fleet compliance plan by July 1, 2010.

~~(b)(c)~~ Small Fleet Compliance Schedule

- (1) Minimum fleet ~~compliance~~conformance thresholds (Table 2): A trailer owner participating in the small fleet compliance schedule must ensure that the percentage of compliant trailers on the compliance plan base list, as defined in subsection ~~(e)(d)~~ (3), is equal to or greater than:
 - (A) 25 percent ~~by December 31, 2013~~beginning January 1, 2014,
 - (B) 50 percent ~~by December 31, 2014~~beginning January 1, 2015,
 - (C) 75 percent ~~by December 31, 2015~~beginning January 1, 2016, and
 - (D) 100 percent ~~by December 31, 2016~~beginning January 1, 2017.

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

| Compliance Year (Y) | Minimum Fleet Compliance Conformance Threshold (P _Y) | Conformance Threshold Deadline |
|---------------------|--|--------------------------------|
| 2013 | 25% | <u>January 1, 2014</u> |
| 2014 | 50% | <u>January 1, 2015</u> |
| 2015 | 75% | <u>January 1, 2016</u> |
| 2016 | 100% | <u>January 1, 2017</u> |

(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, electronically or in a document package entitled “Small Fleet Compliance Plan,” by July 1, 2012. This document submittal must include the following:

- (A) Statement of intent, in accordance with subsection ~~(e)~~(d) (1).
- (B) Trailer fleet list, in accordance with subsection ~~(e)~~(d) (2).
- ~~(C) Copy of registration for each trailer listed on the trailer fleet list.~~
- ~~(D)~~ (C) Small fleet compliance plan base number, calculated in accordance with subsection ~~(d)~~(e) (2).
- ~~(E)~~ (D) Compliance plan base list, in accordance with subsection ~~(e)~~(d)(3)
- ~~(F)~~ (E) Annual compliance conformance number for each compliance year, calculated in accordance with subsection ~~(d)~~(e)(5).
- ~~(G)~~ (F) Annual compliance conformance commitment list for each compliance year, in accordance with ~~(e)~~(d) (4).

~~(e)~~(d) General Compliance Plan Components

- (1) Statement of intent: The statement of intent must be provided to the Executive Officer as part of the owner’s compliance plan by the applicable compliance plan 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~~ the 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 trailers to be brought into compliance in accordance with the refrigerated fleet compliance provision,~~ the trailer owner will bring all ~~nonconforming~~ non-compliant trailers subject to the requirements of this regulation 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 the fleet owner, or any of the owner's 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 in no case later than December 31, 2015 if participating in the large fleet compliance schedule and December 31, 2016 if participating in the small fleet compliance schedule. ~~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~~ will not be allowed to not operate a ~~nonconforming~~ non-compliant trailer on a California highway ~~after December 31, 2012, beginning January 1, 2013,~~ except for refrigerated-van trailers that are eligible for the compliance deadlines set forth in ~~will be brought into compliance in accordance with the refrigerated fleet compliance provision.~~ section 95303(b)(3)(B)2 and exempted trailers.
- (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, or electronic attestation, of the trailer owner or, where applicable, a ~~corporate~~ company or governmental 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, as defined in this subsection, must be provided to the Executive Officer as part of the owner's compliance plan by the applicable compliance plan 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) Name of trailer fleet owner, or responsible official and title if the owner is a business entity or governmental agency~~Owner's name~~
 - (B) Name of company, corporation, or governmental agency
 - (C) ~~Corporate parent (if applicable)~~ Company's motor carrier identification number and type, if applicable
 - (D) ~~Physical~~ Company address including city, state or province, zip code, colonia (Mexico only), and country
 - (E) Mailing address including city, state or province, zip code, colonia (Mexico only), and country
 - (F) Physical address of location where records pertaining to the applicable compliance schedule will be maintained including city, state or province, zip code, colonia (Mexico only), and country
 - (G) Name of contact person
 - (H) Telephone number
 - (I) Email address (if available)
 - (J) Company taxpayer identification number, if applicable
 - (K) Name of corporate parent, if applicable
 - (L) DOORS identification number of corporate parent, if applicable
 - ~~(K)~~(M) List of all 2010 and previous model-year 53-foot or longer box-type trailers that are subject to the requirements of this subarticle that operate in California while the owner is participating in an optional trailer fleet compliance schedule including compliant, nonconforming, and exempted trailers.;
 1. For an owner who elects to participate in the large fleet

compliance schedule, the trailer list must include all trailers that will operate in California including compliant trailers, noncompliant trailers, exempted trailers, and refrigerated trailers that are eligible for the compliance deadlines set forth in section 95303(b)(3)(B)2.

2. For an owner that elects to participate in the small fleet compliance schedule, the trailer list must include all trailers in the owner's fleet, including compliant trailers, noncompliant trailers, exempted trailers, and refrigerated trailers that are eligible for the compliance deadlines set forth in section 95303(b)(3)(B)2. For the sole purpose of documenting the owner's eligibility for the small fleet compliance schedule, the trailer list for those submitting a small fleet compliance plan must also include trailers in the fleet that do not travel on California highways.

(N) For each trailer listed, provide the following:

1. Trailer type (dry van or refrigerated van)
2. Vehicle identification number (VIN)
- ~~2.3.~~ Trailer make
- ~~3.4.~~ Trailer model
- ~~4.5.~~ Trailer model year
- ~~5.6.~~ License plate number
- ~~6.7.~~ State or province of registration
8. Registration type (state, IRP, temporary, seasonal, monthly, or other)
9. Country of registration
- ~~7.10.~~ Compliance status (compliant, nonconforming, or non-compliant/exempted)
11. Exemption Status (not exempt, local-haul exempt, dedicated to short-haul or local-haul tractors)
12. California operating status (indicate whether the trailer will operate in California during the applicable optional compliance schedule)

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

~~2. Transport refrigeration unit make~~

~~3. Transport refrigeration unit model~~

~~40-13. Transport refrigeration unit model year (as applicable)~~

~~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 (as applicable)

~~15. Transport refrigeration unit engine serial number~~

(3) Compliance plan base list: The compliance plan base list is the list -the subset of nonconforming all non-compliant trailers identified in on the trailer fleet list, in accordance with subsection (c)(2)(K), as trailers that will be brought into compliance in accordance with the applicable compliance schedule. Trailers that are not early compliance trailers but are in compliance before January 1, 2010, may also be included on the compliance plan base list and used to meet minimum fleet conformance thresholds. The compliance plan base list shall not include the following trailers:

(A) Exempted trailers, including those local-haul trailers exempt under subsection 95305(c).

(B) Refrigerated-van trailers that are eligible for the compliance deadlines set forth in section 95303(b)(3)(B)2. 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~~

(E) Trailers that will not operate in California for the duration of the applicable trailer fleet compliance schedule

~~Trailers that are in compliance by December 31, 2009 and not used to delay the retrofit or retirement of of delayed compliance trailers may also be~~

included on the compliance base list and used to meet minimum fleet compliance thresholds.

- (4) Annual ~~compliance~~conformance commitment list: The annual compliance conformance commitment list for a particular compliance year is the list of the subset of trailers within the compliance plan base list that the owner commits to bring into compliance to meet the minimum fleet conformance threshold that will take effect on January 1 of the following year by December 31 of that compliance year. For each compliance year's annual ~~compliance~~conformance commitment list, the trailer owner must list a sufficient number of trailers to meet or exceed the annual ~~compliance~~conformance 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)~~(e) Calculation Methodology

- (1) Large fleet compliance plan base number: The compliance plan 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.

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

" N_B " = Large fleet compliance plan base number

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

" N_{2016D} " = Number of Ddelayed compliance trailers number, as determined in accordance with subsection ~~(d)~~(e) (3), if applicable

" N_E " = Number of early compliance trailers, not to exceed $N_{E, max}$ as determined in accordance with Equation 5, if applicable

" N_R " = Number of ~~nonconforming~~ refrigerated-van trailers that are eligible for the compliance deadlines will be brought into compliance in accordance with the refrigerated fleet compliance provision set forth 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 trailer fleet list exemption status of "exempted" "local-haul exempt," "dedicated to short-haul tractors," or "dedicated to local-haul tractors" on the trailer fleet list, if applicable

- (2) Small fleet compliance plan base number: The compliance plan 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.

$$N_{CA} = N_T - N_{NC} \quad \text{(Equation 2)}$$

"N_{CA}" = Total number of trailers in California fleet

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

"N_{NC}" = Number of trailers that will not operate in California for the duration of an applicable trailer fleet compliance schedule

$$N_B = N_T - N_{CA} - N_R - N_X \quad \text{(Equation 23)}$$

"N_B" = Small fleet compliance plan base number

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

"N_{CA}" = Total number of trailers in California fleet, as determined in accordance with Equation 2.

~~"N_R" = Number of nonconforming refrigerated trailers that are eligible for the compliance deadlines will be brought into compliance in accordance with the refrigerated fleet compliance provision set forth 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 trailer fleet list exemption status of "exempted" "local-haul exempt," "dedicated to short-haul tractors," or "dedicated to local-haul tractors," on the trailer fleet list, if applicable~~

- (3) Large fleet D 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)(b)(4), *Early Compliance Option*.

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

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

“N_E” = Number of early compliance trailers, not to exceed N_{E, max} as determined in accordance with Equation 5.

- (4) Large fleet Mmaximum allowable number of early compliance delayed compliance trailers number: The resultant number must be rounded down to the nearest whole trailer

$$N_{2016E, \max} = (N_T - N_R - N_X - N_B + N_E) \times 0.30020 \quad (\text{Equation 35})$$

“N_{2016E, max}” = Maximum allowable number of early compliance delayed compliance trailers number. If N_{2016E, max} is not a whole number, round down to the next whole number.

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

“N_E” = Number of early compliance trailers

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

“N_R” = Number of refrigerated-van trailers that are eligible for the compliance deadlines set forth in section 95303 (b)(3)(B)2.a through (b)(3)(B)2.c, if applicable

“N_X” = Number of trailers with a trailer fleet list exemption status of “local-haul exempt” “dedicated to short-haul tractors,” or “dedicated to local-haul tractors,” if applicable.

- (5) Annual compliance conformance number: The annual compliance conformance number is the number of trailers that a trailer owner must bring into compliance by December 31 of a particular compliance year to ensure that the percentage of compliant trailers within the compliance plan base list meets or exceeds the applicable minimum fleet compliance conformance threshold that takes effect on January 1 of the following year for that year.

$$N_Y = (N_B \times P_Y / 100) - N_{C, Y-1} \quad (\text{Equation 56})$$

“N_Y” = Annual compliance conformance 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 compliance plan base number, as determined in accordance with subsection (d)(e) (1) for large fleets or (d)(e) (2) for small fleets

“ P_Y ” = Minimum fleet ~~compliance~~conformance threshold for compliance year Y, as defined in subsection ~~(a)~~(b) (1) for large fleets and ~~(b)~~(c) (1) for small fleets, expressed as a fraction (e.g. 5% is entered into equation as 0.05).

“ $N_{C, Y-1}$ ” = 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~~must 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)~~(f) General Rrequirements Ffor 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~~on the owner's compliance plan base list is equal to or greater than the applicable minimum fleet ~~compliance~~conformance threshold for that compliance year.
- (2) The trailer owner must ensure that the number of trailers listed on each compliance year's annual ~~compliance~~conformance commitment list is equal to or greater than the ~~applicable~~ annual ~~compliance~~conformance number for that ~~compliance~~same year.
- (3) The trailer owner must bring into compliance all trailers listed in each compliance year's annual ~~compliance~~conformance commitment list before January 1 of the following year~~by December 31 of that compliance year~~.
- (4) The trailer owner must allow ~~ARB representatives~~the Executive Officer, 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, 2015 if participating in the large fleet compliance schedule and December 31, 2016 if participating in the small fleet compliance schedule.~~of the final compliance year of the applicable compliance schedule.~~
- (6) ~~After December 31, 2012~~Starting January 1, 2013, 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~~ a trailer owner may not allow the operation of a ~~nonconforming~~ non-compliant 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 compliance plan 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 is received by ~~arrives at ARB~~ the Executive Officer by the 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~~ the Executive Officer 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, this subarticle, including applicable compliance schedules and the owner's compliance plan,~~ and information and documentation necessary to verify compliance with any other air quality regulation.
- (13) A trailer owner who is participating in the small fleet compliance schedule may not allow a trailer subject to the requirements of this subarticle to operate on a California highway after July 1, 2012, unless
 - (A) the trailer is listed on the owner's trailer fleet list, or
 - (B) the trailer was acquired after July 1, 2012 and both of the following criteria are met:
 1. the owner provides documented proof to the Executive Officer of the trailer's acquisition (purchase or transfer of ownership) date, and

2. the trailer is a compliant trailer, a refrigerated-van trailer that is eligible to be brought into compliance in accordance with the compliance deadlines set forth in section 95303(b)(3)(B)2, or exempt under section 95305. ~~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 to operate on a California highway after December 31, 2012 unless such trailer is listed on such owner's trailer fleet list.~~

~~(15)~~ (14) The A trailer owner may not allow the operation of a nonconformingnon-compliant trailer on a California Highway after December 31 of the compliance year in which the trailer wasis scheduled to be brought into complianceidentified on the annual compliance commitment list.

(15) With the Executive Officer's specific approval, a trailer owner may remove a trailer from a particular compliance year's annual conformance commitment list for the purpose of re-designating such trailer into local-haul or short-haul service, thereby relieving such owner from the obligation of bringing that trailer into compliance. However, such owner must fill the vacancy left on the affected annual conformance commitment list with another trailer from the owner's final annual conformance commitment list on which at least one trailer is still listed. If such owner is participating in the early compliance option, the replacement trailer must be a delayed conformance trailer, if one still exists.

(16) Except as provided in subsection (b)(3), a compliance plan revision may only be made with the approval of the Executive Officer if the Executive Officer determines that a company merger, acquisition, split, or other changed circumstances affecting operations of the owner, necessitate revisions to the compliance plan.

(17) Executive Officer approval will not be granted to allow a newly-formed business, or an existing business commencing operations in California, to participate in a compliance schedule after the submission due date for the applicable compliance plan has passed.

(18) The Executive Officer may make non-confidential 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 or fleet

(19) Although 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 subarticle. 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, 2015, if participating in the large fleet compliance schedule, and December 31, 2016, if participating in the small fleet compliance schedule.

(20) A trailer owner who is participating in the large fleet compliance schedule may not allow a trailer subject to the requirements of this subarticle to operate on a California highway after July 1, 2010, unless

(A) the trailer is a compliant trailer, or

(B) the trailer is listed on the owner's trailer fleet list and is in compliance with all requirements of the large fleet compliance schedule, or

(C) the trailer is a refrigerated-van trailer that is eligible to be brought into compliance in accordance with a compliance deadline set forth in section 95303 (b)(3)(B)2 and such deadline has not yet passed, or

(D) the trailer is exempt under section 95305.

(21) Any violation of the requirements of this subsection constitutes a violation of this subarticle.

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

~~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.~~

~~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 95308 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

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.