



January 30, 2018

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

Re: Comments by XTRA Lease LLC on the *Proposed California Greenhouse Gas Emissions Standards for Medium- and Heavy-Duty Engines and Vehicles and Proposed Amendments to the Tractor-Trailer GHG Regulation* (Hearing Date: February 8, 2018)

Ladies and Gentlemen:

XTRA Lease LLC provides these comments on the California Air Resources Board's *Proposed California Greenhouse Gas Emissions Standards for Medium- and Heavy-Duty Engines and Vehicles and Proposed Amendments to the Tractor-Trailer GHG Regulation* ("Proposed Regulation"). XTRA Lease is a leading provider of over-the-road trailers for rent and lease in the United States, offering a fleet of about 80,000 trailers for rent and lease, including dry vans, flatbeds, reefers trailers and specialty equipment through more than 50 locations, including six locations in California.

Specific Comment

Please confirm that a trailer lessor that does not manufacture or assemble a trailer is not a "manufacturer" under the Proposed Regulation. We believe that a change to the definition of "Manufacturer" in Proposed Section 95662(a)(11) is appropriate to clarify that in order to fall with the definition of "manufacturer," an entity must either manufacture or assemble a vehicle that is offered for sale or otherwise introduced into commerce in California, and that merely introducing a vehicle into commerce in California is not sufficient to bring an entity within the manufacturer definition if the entity did not manufacture or assemble the vehicle.

Proposed Section 95662(a)(11) reads as follows:

(11) "Manufacturer" means any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles and new motor vehicle engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce. In general, this term includes any person who manufactures **or assembles** a vehicle **or vehicle (including a trailer or another incomplete vehicle)** for sale in California or otherwise introduces a new motor vehicle into commerce in California. This includes importers who import vehicles **or vehicles** for resale, **entities that manufacture glider kits, and entities that assemble glider vehicles.**

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We understand from CARB staff that CARB does not view trailer lessors that do not manufacture or assemble trailers as falling within the definition of “manufacturers.” However, we are concerned that there is some ambiguity in the draft definition. We believe it is possible to interpret the definition to include three categories of parties that could be deemed a “manufacturer”: (1) “any person who manufactures . . . a vehicle . . . for sale in California”, (2) “any person who . . . assembles a vehicle . . . for sale in California, and (3) any person who “otherwise introduces a new motor vehicle into commerce in California”. Under such an interpretation, the third method would not require either manufacturing or assembling the vehicle, but rather, merely introducing it into commerce.

Since we understand such an interpretation was not intended by CARB, we suggest making the following clarifying edits to the definition.

(11) “Manufacturer” means any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles and new motor vehicle engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce. In general, this term includes any person who manufactures or assembles a vehicle (including a trailer or another incomplete vehicle) **that is either offered for sale, or otherwise introduced into commerce**, in California ~~or otherwise introduces a new motor vehicle into commerce in California~~. This includes importers who import vehicles or vehicles for resale, entities that manufacture glider kits, and entities that assemble glider vehicles.

We appreciate CARB’s consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew L. Krueger". The signature is written in a cursive style with a long horizontal stroke extending to the left.

Andrew L. Krueger,
Vice President & General Counsel