

CALIFORNIA AIR RESOURCES BOARD

RULEMAKING TO CONSIDER)
ADOPTION OF A REGULATION)
TO REDUCE GREENHOUSE GAS)
EMISSIONS FROM HEAVY-DUTY)
VEHICLES)

2 October 2009

**STATEMENT OF
DAIMLER TRUCKS NORTH AMERICA**

Introduction

The California Air Resources Board (CARB) proposes to adopt a requirement under which all new model year 2011 and later sleeper-cab heavy-duty tractors pulling 53-foot or longer box-type trailers in California must be US EPA SmartWay certified. Daimler Trucks North America (DTNA) manufactures tractors eligible for SmartWay certification, and we strive daily to improve our customers' vehicles' fuel efficiency. Nonetheless, we object to CARB's regulation based on the following:

1. The process of selecting vehicles eligible for SmartWay certification was never subjected to the scrutiny of a rulemaking process and therefore may not be ready for CARB's adoption into its regulatory program.
2. The newly incorporated interim SmartWay standards are not performance-based, not scientific, potentially discriminate against fuel efficient vehicles based solely on their appearance, and hence do not meet the criterion that CARB demanded of such standards.
3. There is a more reasonable alternative to CARB's proposed regulation, and CARB should consider that alternative.

These comments relate directly to the additional documents that CARB added to its rulemaking, including the Supporting Documents and Resolution 08-44.

At CARB's December 11, 2008, board meeting, DTNA submitted written comments and discussed orally how the original list of SmartWay-eligible vehicles was chosen in a manner that allowed some vehicle manufacturers' brands to have more eligible vehicles than others and left some brands with no vehicles. We discussed how the vehicles originally designated as SmartWay-eligible were designated in a manner lacking uniform, scientific criteria. And we discussed how the SmartWay program lacked a scientific process of adding vehicles to its eligibility list. Perhaps in response to these comments, CARB included in its Resolution 08-44 a direction to the Executive Officer:

“...to modify the regulatory language or take other appropriate steps to ensure the requirements specified in section 95303(a)(1) for certification of tractors will take

effect only if the U.S. EPA modifies the existing U.S. EPA Certified SmartWay Tractor certification requirements to establish new performance-based test requirements that will provide for comparable greenhouse gas reductions for similar certified SmartWay tractors from different manufacturers....”

In turn, the Executive Officer and CARB Staff incorporated into their “Notice of Public Availability of Modified Text and Availability of Additional Documents” a reference to new EPA documents relating to SmartWay eligibility, including a new interim set of requirements that the EPA will use to determine SmartWay eligibility.

The Interim SmartWay Certification Requirements Have Never Been Subjected to the Public Rule Making Process

The new interim requirements upon which CARB bases its regulation have never subject to a public rulemaking procedure. They were adopted over objections from DTNA and others, without comment or explanation from the EPA and without the possibility of public involvement. They include arbitrary and vague limitations. They have never yet been demonstrated to correspond to or correlate with improved fuel efficiency. And in fact, they never will be, because they contain requirements and limitations that have nothing to do with fuel efficiency. In fact, as noted in footnote 1 of the interim requirements, the EPA acknowledges that the new “method is an interim method, in effect until the US Environmental Protection Agency (EPA) finalizes a more comprehensive greenhouse gas emissions test protocol for medium duty and heavy duty commercial on highway vehicles. When the more comprehensive test protocol is finalized, EPA plans to establish new performance-based eligibility criteria for SmartWay certification of Class 8 sleeper-cab tractor-trailers using the new more comprehensive test method.” (See EPA, *Interim Requirements to Determine Eligibility of SmartWay Tractors*, EPA-420-F-09-045, 2009.) EPA has not completed the work necessary to establish a reliable and fair standard. CARB should not adopt as part of its standard a method not yet proven by EPA to be adequate for a regulation.

The New EPA Interim Requirements are Appearance Based, Not Scientific, and Discriminatory

The EPA’s new requirements to certify new vehicles as SmartWay-eligible are not solely performance-based and hence leave open the possibility of very efficient vehicles being barred from eligibility. Specifically, those requirements include the statement: “No ‘classic-style’ tractors (long nose, flat hood, flat, squared-off grill) will be considered eligible even if they meet other requirements.” (*Id.*) In other words, even if a classic-style vehicle proves itself the most fuel efficient vehicle on the road, it is barred from SmartWay-eligibility because of its appearance. A standard of this sort is vague, at best. (For example, the standard does state what length of nose is too long. Is a 125 inch “BBC”¹ too long to be fuel efficient and, if so, why?) A standard of this sort is not scientific. And most importantly, it is not a “performance-based test requirements that will provide for comparable greenhouse gas reductions for similar certified SmartWay tractors from different manufacturers.” Consequently, it does not meet CARB’s requirements, as specified in Resolution 08-44.

¹ For trucks and tractors, the generally used measure of length is the “Bumper to Back of Cab” or “BBC” length.

Suppose, for illustration, that DTNA develops the most fuel efficient vehicle but gives it a “classic-style.” Suppose that this style were integral to the vehicle’s fuel efficiency (*e.g.*, it derives its fuel efficiency by having a large hood opening for optimal cooling, thereby minimizing the operational time of the engine fan, which consumes as much as 40 horsepower). CARB’s regulation, incorporating EPA’s interim requirements, would bar this vehicle from use on California roads with the most common type of trailer in commercial operation. It may be acceptable for EPA to bar this tractor from participation in EPA’s voluntary SmartWay program because EPA does not like the vehicle’s appearance² (although we do not think that is acceptable). However, there is a big difference between barring a vehicle from a voluntary program and barring it, by regulation, from the most common type of commercial operation on California roads.

CARB Should Adopt a More Reasonable Available Alternative

There are more reasonable alternatives to CARB’s proposed regulation. CARB should work with the EPA to develop a truly rigorous procedure to compare the fuel efficiency (or greenhouse gas emissions) of heavy duty vehicles and determine SmartWay eligibility. DTNA recommends that, only after developing a rigorous procedure, should CARB regulate vehicles based upon SmartWay certification. DTNA suggests that CARB also work with the US Department of Transportation on its heavy-duty vehicle fuel efficiency (and greenhouse gas) measure, as mandated under the Energy Independence and Security Act of 2007.

As an alternative, or perhaps as an interim measure, DTNA suggests that CARB require technologies, with rigorous specifications, that have been scientifically demonstrated to improve fuel efficiency. We suggest CARB start with the EPA’s list of SmartWay add-on technologies: fuel tank side fairings, cab roof fairings, cab side extenders, aerodynamic mirrors, aerodynamic bumpers, idle reduction technologies, and low rolling resistance tires. However, while a scientific tractor standard is still nonexistent, we recommend CARB refrain from requiring certain tractors.

Respectfully Submitted

Daimler Trucks North America LLC

² EPA considers SmartWay to be a brand and therefore wants to maintain a certain appearance, whether that appearance has any relevance to fuel efficiency or not.