



December 14, 2010

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

**Re: Amendments to the Heavy-Duty Greenhouse Gas Emission Reduction Measure**

Ladies and Gentlemen:

XTRA Lease LLC ("XTRA") is a nationwide trailer leasing company owned by Berkshire Hathaway, Inc. that owns a semi-trailer fleet of approximately 85,000 trailers. XTRA rents and leases its fleet from over 70 branch locations throughout the United States and Canada. XTRA's California based trailer fleet is comprised of approximately 11,000 trailers, which are rented and leased from nine California branch locations. XTRA has a large and diverse customer base of motor carrier customers, ranging from large national retailers, manufacturers, and long-haul carriers, to local and regional retailers, distributors and trucking companies.

XTRA appreciates the opportunity to provide the following comments to the proposed amendments to the Heavy-Duty Vehicle Greenhouse Gas Emission Reduction Measure (the "Regulation") to be considered by the California Air Resources Board (the "Board") on December 17, 2010.

**Extension of Compliance Deadline for Low-Rolling Resistance Tires on Dry-Van Trailers**

XTRA recommends that the Board adopt the proposed revisions to section 95303(b)(3) of the Regulation, extending the compliance deadline for the installation of SmartWay verified tires on 2010 and previous model year 53-foot box-type trailers. This modification will benefit the underlying intent of the Regulation, by permitting fleet owners to continue to utilize existing tires and retreads through the remainder of their useful life. By giving fleet owners a longer amount of time to transition to SmartWay verified tire technologies, the Board will avoid the premature disposal of millions of otherwise useable tires and the corresponding short-term spike in waste tire generation and greenhouse gas production.

**Relocation Pass Exemption**

XTRA appreciates the addition of a relocation pass exemption for 53-foot box-type trailers in Section 95305(f) of the Regulation. This is an important addition, given the needs of fleet owners to periodically introduce both new and used equipment into California for use in local haul and storage trailer fleets, and for trailers that have previously been used in local haul or storage trailer contexts to be moved out of California when necessary. Without such a relocation pass exemption, upon reaching the January 1, 2013 compliance deadline for 2010 and older model year trailers, the local-haul and storage trailer exemptions would become practically obsolete, as fleet owners would not have any means to add or remove trailers without aerodynamic technologies to a California local haul or storage fleet without violating the Regulation.

While XTRA is pleased the Board has decided to propose the relocation pass concept, XTRA believes the three day effective period of the relocation pass should be modified. As currently drafted, the three day period will in many circumstances make it logistically impossible to coordinate the movement of freight on relocated trailers. Given the logistical difficulty of coordinating freight transportation in

*A Berkshire Hathaway Company*

1801 PARK 270 DRIVE, SUITE 400 • ST. LOUIS, MISSOURI 63146-4037  
(314) 579-9300 • (800) 325-1453 • WEB: WWW.XTRALEASE.COM



such a limited window, we believe that in many cases fleet owners will have no choice but to relocate empty trailers into and out of California. This is an unintended inefficiency which is contrary to the stated goal of the Regulation.

Take for example a scenario where XTRA intends to relocate a trailer from Dallas, Texas to a local haul setting in Los Angeles, California. XTRA would offer the relocated trailer to a long-haul carrier to use free of charge to deliver freight to Los Angeles. The carrier would then identify a shipper with a load for transport from Dallas to Los Angeles. The carrier would pick-up the trailer from XTRA's Dallas branch and take the trailer to the shipper's facility. The trailer would then be loaded, which could happen immediately or within a matter of days, depending on the nature of the load, conditions at the shipper's facility, and the time of year. Once loaded, the trailer would travel to the shipper's delivery point in Los Angeles. The shipper would then unload the trailer, the timing of which could depend on variables associated with the nature of the shipment and the shipper's receiving location. Once unloaded the carrier would complete the relocation by transporting the trailer to XTRA's branch.

Typical of most trailer relocations, there are a number of steps involving multiple parties in the above example. The interaction between the fleet owner, the carrier, and the shipper creates uncertainty as to the start date of the relocation trip. Once started, the timing of the trip itself could be impacted by any number of variables, including inclement weather, traffic congestion, road construction, and limitations on driver work hours. It would be next to impossible to identify in advance three specific days when the transport of a relocated trailer into or out of the State of California would occur. And because a fleet owner is required to specify three days in which the trip will occur, fleet owners will find it practically impossible to utilize the relocation pass in conjunction with the transport of freight.

As a solution to our concerns regarding the relocation pass, we suggest that the Board modify the amended Regulation to permit a fleet owner to specify a broader range of days during which a relocation trip might occur. We suggest that at the time the fleet owner applies for a relocation pass, the Board permit the fleet owner to designate a period of 30 days during which the relocation trip could occur. This would give the fleet owner more flexibility to coordinate the freight and transportation logistics associated with the relocation. The Board could then issue the relocation pass, contingent on the fleet owner providing the Board with formal notice of the initiation of the relocation trip within the 30 day period via e-mail, the Board's website, or otherwise. Upon providing such notice, the fleet owner would then have a certain number of days to complete the relocation trip.

We also suggest that the time period for completing a relocation trip be lengthened to a period of at least five days from commencement of the relocation trip. For the reasons specified above, in most cases a fleet owner will not be able to predict the three day window in which a relocation trip can be completed. The multiple variables that can affect the timing of an individual trip, not the least of which are concerns over coordinating logistics between a motor carrier and shipper, make the three day window impractical. A five day window would give the fleet owner more flexibility to deal with unanticipated delays and circumstances.

### **Non-Compliant Trailer Pass Exemption**

The current amendments to the Regulation include a relocation pass provision (discussed above) for local-haul and storage trailers, which gives the Executive Officer the flexibility to address the needs of owners relocating local-haul trailers to their registered local-haul bases or relocating their registered storage trailers to new storage locations. The current amendments to the Regulation also include a non-compliant tractor pass provision in Section 95305(h) which gives the Executive Officer some flexibility in addressing relocation needs for non-compliant tractors.



XTRA is concerned, however, that the current amendments to the Regulations do not take into account the need for relocating non-compliant trailers or the need of equipment lessors to utilize the relocation pass exemption.

Trailer lessors are not generally deemed owners of trailers regulated under the Regulation, so long as they properly notify their lessees of the requirements of the Regulation. In doing so, the Regulation takes into account the unique position held by equipment lessors in the marketplace and the need to provide clarity as to the lessee operator's ultimate responsibility for operating leased equipment in compliance with the Regulation. In order to utilize the relocation pass exemption, trailer lessors would be required to register a portion of their fleet as a storage fleet or their facilities as local haul bases. As drafted, the relocation pass exemption will require a lessor to make multiple periodic registrations of facilities and equipment that do not ultimately help the Board achieve its regulatory goals.

We believe that granting the Executive Officer authority similar to that granted in the non-compliant tractor context to address the need for relocation by lessors of 53-foot trailers that do not comply with the Regulation is warranted. We suggest that the Board include a non-compliant trailer relocation pass provision, similar to the non-compliant tractor pass provision, which will also provide flexibility for lessors to relocate non-compliant trailers. This exemption should be permanent, so as to allow lessors to have the ability to add or remove trailers to their California inventory of local haul or storage use trailers following full implementation of the Regulation.

XTRA also recommends that the non-compliant trailer pass exemption provide the Executive Officer with a tool to address other unique circumstances that may arise with respect to regulated trailers that warrant a specific and limited exemption but do not otherwise neatly fit in the exemptions already included in the Regulation. By empowering the Executive Officer with general authority to grant a non-compliant trailer pass exemption in those circumstances that the Executive Officer deems appropriate to warrant a tailored exemption, the Board would avoid having to modify the existing Regulation to address unintended consequences for very specific scenarios that can and should not be dealt with in the broader context of the Regulation. We believe it advisable for the Executive Officer to have general authority to make decisions, without having to seek new Board approval, to provide exemptions from the Regulations based on investigation and an understanding of particular circumstances by the Executive Officer.

### **Proposed Revisions**

To assist the Board with its review of the Regulation, we have included suggested revisions to the amended Regulation detailing our proposals. Hopefully these proposed revisions will assist the Board and staff in evaluating XTRA's comments.

Again, we appreciate this opportunity to comment on the proposed amendments to the Regulation. We of course are willing to make ourselves available to the Board and its staff to answer any questions and provide further thoughts and comments. We appreciate your consideration of our comments and proposed revisions, and look forward to continuing to work with the Board and its staff on this important Regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Zaborowski".

Stephen T. Zaborowski  
Senior Vice President  
XTRA Lease LLC

**MODIFIED REGULATION ORDER**  
**TO REDUCE GREENHOUSE GAS**  
**EMISSIONS FROM HEAVY-DUTY VEHICLES**

Amend subarticle 1, sections 95300 to 95314~~2~~, title 17, California Code of Regulations, to read as follows: *[Note: This document is printed in a style to indicate changes from the existing provisions. All existing language is indicated by plain type. All additions to language are indicated by underlined text. All deletions to language are indicated by ~~strikeout~~.]*

**Subarticle 1: Heavy-Duty Vehicle Greenhouse Gas Emission Reduction**  
**MeasureRegulation**

*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 a highway within California.

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 a highway within California, as well as motor carriers, California-based brokers, and California-based shippers that use, or cause to be used, the following equipment on a highway within California:
  - (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;

**Draft Workshop Version: September 29, 2010**

- (6) box-type trailers less than 53 feet in length;
  - (7) emergency vehicles; and
  - (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, and
  - (5) storage trailers.
- ~~(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. 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) *“Box-type trailer”* means a dry-van trailer or refrigerated-van trailer that is not a drop-frame trailer.

**Draft Workshop Version: September 29, 2010**

- (3) *“Broker”* means a person who, 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.
- (4) *“Cab side extender”* means a flow control device placed vertically on the rear side of the tractor 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.
- (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 aerodynamic technology or technologies ~~equipment~~ to comply with the equipment requirements set forth in subsection 95303(b), ~~as applicable, or remove the trailer from the owner’s fleet~~ 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 in section 95307, Optional Trailer Fleet Compliance Schedules, Tables 1, ~~and 2,~~ and 3. 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.
- (11) *“Curtain-side trailer”* means a 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 pursuant to subsection 95307(b)(4).

**Draft Workshop Version: September 29, 2010**

- (13) “*Dispatch*” means to coordinate delivery, pickup, and drop-off schedules of vehicles; and monitor the delivery of freight from these vehicles.
- (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.~~
- (165) “*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.
- (176) “*Driver*” means a person who physically operates a HD tractor.
- (187) “*Drop-frame trailer*” means an enclosed rectangular trailer with a deck that is lower to the ground in the area between the trailer hitch and the trailer wheels, to create more cargo space.
- (198) “*Dry-van trailer*” means an enclosed rectangular ~~non-climate controlled~~ trailer that is not a refrigerated-van trailer.
- ~~(2019)~~ “*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.
- (240) “*Emergency vehicle*” means a vehicle as defined in California Vehicle Code §section 165.
- ~~(21)~~ “*Empty trailer*” means a trailer that does not contain freight. A trailer that contains only items used for the handling or securing of freight; such as moving blankets, straps, moving dollies, and tool kits that are used in the transport of other items in the trailer, or to maintain the tractor or trailer on the road; is considered an empty trailer.
- (22) “*Fairing*” means a structure with smoothly contoured solid surfaces that reduces the wind resistance of the objects they cover.
- (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

**Draft Workshop Version: September 29, 2010**

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.

- (24) *“Flow control device”* means 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.
- (25) *“Freight”* means any item being transported for delivery in a 53-foot or longer box-type trailer. Items that remain in the trailer after all freight is delivered are not considered freight. This includes items that are used exclusively to secure items being transported in the trailer, protect items being transported in the trailer, load items being transported in the trailer, or repair the tractor or trailer. Examples of items that are not be considered freight include moving blankets, straps, tool kits, and moving dollies.
- (256) *“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.
- (267) *“Good operating condition”* means the condition of a HD tractor or box-type trailer that meets the applicable standards in section 95304, Good Operating Condition Requirements for continued aerodynamic efficiency.
- (278) *“Gross vehicle weight rating”* or *“GVWR”* means the GVWR as defined in California Vehicle Code §section 350.
- (289) *“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).
- (2930) *“Highway”* means a “highway” as defined in California Vehicle Code section 360.
- (301) *“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.
- (32) *“Intermodal railyard”* means any rail facility where trailers are transferred from drayage tractor to train or vice-versa.
- (343) *“Livestock trailer”* means a semitrailer designed to transport live animals.



Draft Workshop Version: September 29, 2010

- (324) “*Local-haul base*” means the location where a local-haul tractor or local-haul trailer is garaged, maintained, and/or from which it is routinely dispatched.
- (335) “*Local-haul tractor*” means a HD tractor that travels exclusively within a 100-mile radius of its local-haul base.
- (346) “*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.
- (357) “*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.
- (368) “*Military tactical support vehicle*” means a “Military Tactical Support Vehicle” as defined in title 13, California Code of Regulations (CCR), section 1905.
- (379) “*Motor carrier*” means a “Motor carrier” as defined in California Vehicle Code §section 408.
- (40) “*Non-compliant Tractor Pass*” means a temporary permit issued by the Executive Officer in accordance with the requirements of subsection 95305 (i) that allows a heavy-duty tractor to pull a 53-foot or longer box-type trailer on a highway within California without meeting the requirements of subsections 95303(a) and 95305(b) for a defined time period not to exceed ~~three~~five consecutive days.
- (41) “Non-compliant Trailer Relocation Pass” means a permit issued to a lessor of trailers by the Executive Officer in accordance with the requirements of subsection 95305 (i) that allows a 53-foot or longer box-type trailer to be pulled by a heavy-duty tractor on a highway within California without meeting the requirements of subsections 95305(b) or 95306.**
- (421) “*Open-shoulder tire*” means a tire that is constructed such that the two outer tread ribs that are located where the tread and sidewalls meet are separated into individual tread blocks.
- (38~~4243~~) “*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

**Draft Workshop Version: September 29, 2010**

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 95302(a)(37)(C), 95302(a)(37)(D) and 95302(a)(37)(E) and not this subsection apply to tractors or trailers that are leased.
- (BA) 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.
- (CB) 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 lessor demonstrates that the lessor provided the lessee with the following statement on a document separate from the lease agreement, or 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 highway within California, the heavy-duty tractor must be compliant with sections 95300 – 95314~~2~~, 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 (U.S. EPA) ~~Verified~~ SmartWay Verified 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 Certified Tractor."*

**Draft Workshop Version: September 29, 2010**

(DC) 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 if the lessee is provided with the following statement on a document separate from the lease agreement, or 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 highway within California, the box-type trailer must be compliant with sections 95300 – 953142, 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 Verified Technologies prior to current or future use in California.”*

2. The lessor demonstrates that either:
  - a. the lease agreement ~~permits~~ does not prohibit the lessee from modifying the trailer 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.

(ED) 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 lessor demonstrates

that the lessor provided the lessee with the following statement on a document separate from the lease agreement, or 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 highway within California, the box-type trailer must be compliant with sections 95300 – 95314~~2~~, 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 Verified Technologies prior to current or future use in California.”*

- (FE) For purposes of this subarticle, the terms “lease agreement,” “leased,” “lessor,” and “lessee” mean the same as “rental agreement,” “rented,” “owner of the rented vehicle,” and “renter,” respectively.
- (~~39~~4344) “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.
- (4445) “Port” means the port property where marine and port terminals are typically located for the loading and unloading of water-borne commerce onto and from ocean-going vessels. For purposes of this regulation, port does not include port property that is not related to or primarily used to engage in water-borne commerce. Ports covered by this regulation include, but are not limited to, the Port of Long Beach, Port of Los Angeles, Port of Humboldt Bay, Port of San Diego, Port of Hueneme, Port of Oakland, Port of San Francisco, Port of Sacramento, Port of Stockton, Port of Redwood City, Port of Crockett, Port of Richmond, Port of Pittsburg, and the Port of Benicia.
- (~~40~~546) “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.
- (~~41~~647) “Refrigerated-van trailer” means a rectangular trailer van that has a refrigeration or heating unit built into the front of the trailer to maintain precise temperatures and is designed to be used to haul frozen food, fresh produce, hot or warm food, and other perishable items.

**Draft Workshop Version: September 29, 2010**

- (~~427~~**48**) “*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.
- (~~4~~**98**) “*Relocation Pass*” means a temporary permit issued by the Executive Officer in accordance with the requirements of subsection 95305 (f) that allows a local-haul trailer to relocate to either a new local-haul base or to an out-of-state location while hauling freight; a storage trailer to relocate to a new storage location or to an out-of-state location while hauling freight; or an out-of-state trailer to relocate to either a local-haul base or storage location while hauling freight without meeting all of the applicable requirements of subsections 95303(b).
- (~~43~~**950**) “*Semitrailer*” means a “Semitrailer” as defined in section 550 of the California Vehicle Code.
- (~~445~~**10**) “*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.
- (~~455~~**21**) “*Short-haul tractor*” means a HD tractor that travels less than 50,000 miles per year, including all miles accrued both inside and outside of California.
- (~~465~~**32**) “*Sleeper cab*” means a HD tractor body that has a compartment containing a bed located behind the driving compartment.
- (~~5~~**43**) “*Storage trailer*” means a trailer that is used for the storage of items at a fixed location.
- (~~475~~**54**) “*Tractor*” means a “Truck Tractor” as defined in section 655 of the California Vehicle Code.
- (~~485~~**65**) “*Trailer*” means a semitrailer.
- (~~5~~**76**) “*Transfer of Ownership Pass*” means a temporary permit issued by the Executive Officer in accordance with the requirements of subsection 95305(g) that allows a heavy-duty tractor to pull a 53-foot or longer box-type trailer on a highway within California without meeting all of the applicable requirements of subsections 95303(b) for the purpose of delivering a trailer from it’s current location to the new owner’s location.
- (~~495~~**87**) “*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-van trailers. TRUs may be capable of both cooling and heating.

**Draft Workshop Version: September 29, 2010**

**(598)** “TRUCRS (Truck Regulation Upload, Compliance, and Reporting System)” is the on-line reporting tool for this subarticle.

**(50960)** “U.S. EPA ~~Certified~~ SmartWay Certified 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.

**(54610)** “U.S. EPA ~~Certified~~ SmartWay Certified 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.

**(52621)** “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 incentives for improving freight movement efficiency and the fuel efficiency of freight moving equipment. Information on the U.S. EPA SmartWay Transport Partnership Program is available 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/>.

**(53632)** “U.S. EPA ~~Verified~~ SmartWay Verified Technology” or “U.S. EPA ~~Verified~~ SmartWay Verified 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, beginning 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 Certified Tractor.
- (2) Except as provided in subsection 95305, *Exemptions*, beginning January 1, 2010, no 2011 or subsequent model year HD tractor, including but not

**Draft Workshop Version: September 29, 2010**

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 ~~Verified~~ SmartWay Verified Technologies.

- (3) Except as provided in ~~subsection~~ 95305, *Exemptions*, beginning January 1, 2013, no 2010 or previous model year HD tractor, 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 ~~Verified~~ SmartWay Verified Technologies.

(b) *Trailer Requirements.*

- (1) *2011 and Subsequent Model Year Dry-Van Trailer Requirements.*

Except as provided in ~~subsection~~ 95305, *Exemptions*, beginning 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 Certified Trailer, or,

(B) equipped with both:

1. tires that are U.S. EPA ~~Verified~~ SmartWay Verified Technologies; and
2. ~~any combination of a dry-van trailer aerodynamic technologies or combination of technologies that is either 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.~~
  - a. a U.S. EPA SmartWay Verified Technology or combination of U.S. EPA SmartWay Verified 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, or
  - b. a technology or combination of technologies that was a U.S. EPA SmartWay Verified Technology or combination of U.S. EPA SmartWay Verified Technologies that met the criteria defined in subsection (b)(1)(B)2.a., but has been modified, provided that the Executive Officer has approved both the modification and the installation configuration.

**Draft Workshop Version: September 29, 2010**

(2) *2011 and Subsequent Model Year Refrigerated-Van Trailer Requirements.*

Except as provided in subsection 95305, *Exemptions*, 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 Certified Trailer, or,

(B) equipped with both:

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

2. a dry-van trailer or refrigerated-van trailer aerodynamic technology any or combination of dry-van trailer aerodynamic technologies that is either 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.

a. a U.S. EPA SmartWay Verified Technology or combination of U.S. EPA SmartWay Verified 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, or

b. a technology or combination of technologies that was a U.S. EPA SmartWay Verified Technology or combination of U.S. EPA SmartWay Verified Technologies that met the criteria defined in subsection (b)(2)(B)2.a., but has been modified, provided that the Executive Officer has approved both the modification and the installation configuration.

(3) *2010 or Previous Model Year Dry-Van and Refrigerated-Van Trailer Requirements.*

(A) —

Except as provided in section 95305, *Exemptions*, A 2010 or previous model year 53-foot or longer box-type trailer pulled by a HD tractor may not travel on a highway within California unless all of the following requirements are met by the compliance dates specified. 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



**Draft Workshop Version: September 29, 2010**

~~(b)(1)(B), or a refrigerated van trailer that meets the requirements of subsections (b)(2)(A) or (b)(2)(B).~~

(A) By January 1, 2017, a 2010 or previous model year 53-foot or longer box-type trailer not identified in subsection 95303 (b)(3)F must be equipped with tires that are U.S. EPA SmartWay Verified Technologies.

(B) For dry-van trailers not participating in an optional trailer fleet compliance schedule as defined in section 95307, *Optional Trailer Fleet Compliance Schedules*, by January 1, 2013, a 2010 or previous model year 53-foot or longer dry-van trailer must either be

1. a U.S. EPA SmartWay Certified Trailer, or

2. equipped with a dry-van trailer aerodynamic technology or combination of technologies that is either

a. a U.S. EPA SmartWay Verified Technology or combination of U.S. EPA SmartWay Verified 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, or

b. a technology or combination of technologies that was a U.S. EPA SmartWay Verified Technology or combination of U.S. EPA SmartWay Verified Technologies that met the criteria defined in subsection 95303 (b)(3)(B)2.a., but has been modified, provided that the Executive Officer has approved both the modification and the installation configuration.

(C) For refrigerated-van trailers not participating in an optional trailer fleet compliance schedule as defined in section 95307, *Optional Trailer Fleet Compliance Schedules*, and not identified in subsection 95303 (b)(3)(F), by January 1, 2013, a 2010 or previous model year 53-foot or longer refrigerated-van trailer must either be

1. a U.S. EPA SmartWay Certified Trailer, or

2. equipped with a dry-van or refrigerated-van trailer aerodynamic technology or combination of technologies that is either

**Draft Workshop Version: September 29, 2010**

- a. a U.S. EPA SmartWay Verified Technology or combination of U.S. EPA SmartWay Verified 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, or
  - b. a technology or combination of technologies that was a U.S. EPA SmartWay Verified Technology or combination of U.S. EPA SmartWay Verified Technologies that met the criteria defined in subsection 95303 (b)(3)(C)2.a., but has been modified, provided that the Executive Officer has approved both the modification and the installation configuration.
- (D) For dry-van trailers participating in an optional trailer fleet compliance schedule as defined in section 95307, *Optional Trailer Fleet Compliance Schedules*, a 2010 or previous model year 53-foot or longer dry-van trailer must either meet the requirements defined in subsection 95303 (b)(3)(B)1. or the requirements defined in subsection 95303 (b)(3)(B)2. by the applicable compliance dates in section 95307, *Optional Trailer Fleet Compliance Schedules*.
- (E) For refrigerated-van trailers participating in an optional trailer fleet compliance schedule as defined in section 95307, *Optional Trailer Fleet Compliance Schedules*, a 2010 or previous model year 53-foot or longer refrigerated-van trailer must either meet the requirements defined in subsection 95303 (b)(3)(C)1. or the requirements defined in subsection 95303 (b)(3)(C)2. by the applicable compliance dates in section 95307, *Optional Trailer Fleet Compliance Schedules*.
- (F) A refrigerated-van trailer that is a model year 2003 through 2009 53-foot or longer trailer equipped with 2003 or subsequent model year transport refrigeration unit engine must be equipped with tires that are U.S. EPA SmartWay Verified Technologies and either meet the requirements defined in subsection 95303 (b)(3)(C)1. or the requirements defined in subsection 95303 (b)(3)(C)2. by
- 1. January 1, 2018 for a 2003 or 2004 model year trailer; or
  - 2. January 1, 2019 for a 2005 or 2006 model year trailer; or
  - 3. January 1, 2020 for a 2007, or 2008, or 2009 model year trailer.

**Draft Workshop Version: September 29, 2010**

~~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 ~~can~~may not operate a HD tractor to pull a 53-foot or longer box-type trailer on a highway within California unless both the tractor and the trailer:
  - (A) comply with the applicable requirements and compliance deadlines set forth in subsections 95303(a) and 95303(b); and
  - (B) are in good operating condition as defined in section 95304, Good Operating Condition Requirements.
- (2) A driver must, upon demand, provide the following available information to authorized enforcement personnel identified in section 95308:
  - (A) driver's license;
  - (B) vehicle odometer reading, if 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;

**Draft Workshop Version: September 29, 2010**

- (G) if dispatched by a motor carrier, the motor carrier information set forth in subsection 95303(g)(1)(B); ~~and~~
  - (H) if dispatched by a broker, the broker information set forth in subsection 95303(f)(1)(B);
  - (I) if operating a drayage tractor that is exempt pursuant to the requirements of subsection 95305 (d), documentation indicating the port or intermodal railyard of origin or destination, as applicable; and
  - (J) if operating a HD tractor pulling a 53-foot or longer box-type trailer that is operating under either a Relocation Pass pursuant to subsection 95305(f), Transfer of Ownership Pass pursuant to subsection 95305(g), ~~or~~ Non-compliant Tractor Pass pursuant to subsection 95305(h), **or Non-compliant Trailer Relocation Pass pursuant to subsection 93505(i)**; the pass approval number, as applicable.
- (3) A driver of a HD tractor pulling a trailer that has been registered as a storage trailer or a local-haul trailer pursuant to subsection 95306(e) and subsection 95306 (c), respectively, must upon request allow authorized enforcement personnel to directly view the inside of the trailer.
- (34) A driver shall not operate a HD tractor to pull a 53-foot or longer box-type trailer on a highway within 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~~ may not use or authorize the use of cause to be used a HD tractor to pull a 53-foot or longer box-type trailer on a highway within California unless both the HD tractor and the box-type trailer:
    - (A) comply with the applicable requirements and compliance deadlines set forth in subsections 95303 (a) and 95303 (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 within California unless the 53-foot or longer box-type trailer:

**Draft Workshop Version: September 29, 2010**

- (A) complies with the requirements and compliance deadlines set forth in subsection 95303(b); and
  - (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 95303(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*.
- (f) *Requirements for California-based Brokers.*
- (1) A California-based broker must:
    - (A) only dispatch a HD tractor or a 53-foot or longer box-type trailer for travel on a highway within California if the tractor ~~or~~ and trailer complies with the operating requirements and compliance deadlines set forth in subsections 95303(a) and 95303(b);
    - (B) provide the following information to a dispatched driver who will be travelling on a highway within California:
      - 1. broker's business name;
      - 2. broker's street address, state, zip code;
      - 3. broker contact person's name; and
      - 4. broker contact person's business phone number.
- (g) *Requirements for Motor Carriers.*
- (1) A motor carrier must:
    - (A) only dispatch a HD tractor or a 53-foot or longer box-type trailer for travel on a highway within California if the tractor ~~or~~ and trailer complies with the operating requirements and compliance deadlines set forth in subsections 95303(a) and 95303(b);
    - (B) provide the following information to a dispatched driver who will be travelling on a highway within California:
      - 1. motor carrier's business name;
      - 2. motor carrier's street address, state, zip code;

**Draft Workshop Version: September 29, 2010**

3. motor carrier contact person's name; and
4. motor carrier contact person's business phone number.

*(h) Requirements for California-based Shippers.*

~~(A)~~(1) 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 highway within California 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 95303(a) and 95303(b).

*(i) Requirements for California-licensed Vehicle Dealers.*

(1) Any California-licensed vehicle dealer selling a HD tractor or 53-foot or longer box-type trailer subject to this regulation must provide the buyer with the following disclosure in writing:

*“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 Regulation. 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.

*95304 Good Operating Condition Requirements.*

*(a) Good Operating Condition Criteria for U.S. EPA ~~Certified~~ SmartWay Certified 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; and
  - (C) Each must not be used if it is damaged to such an extent as to compromise its aerodynamic effectiveness.

**Draft Workshop Version: September 29, 2010**

- (b) *Good Operating Condition Criteria for U.S. EPA Certified SmartWay Trailer Aerodynamic Technologies.*
- (1) ~~An~~ Aerodynamic technologies installed on a box-type trailer must meet the following criteria:
- (A) The aerodynamic technologies must be installed in accordance with the aerodynamic technology manufacturer's specifications;
- (B) The aerodynamic technology must either be installed:
1. such that the technology continues to maintain its verified status in accordance with the requirements of the U.S. EPA SmartWay Transport Partnership Program, or
  2. in a configuration approved by the Executive Officer.
- (~~BC~~) The aerodynamic technologies must be securely fastened to the trailer;
- (~~CD~~) The aerodynamic technologies must not be used with missing sections;
- (~~DE~~) The aerodynamic technologies must not be used if damaged to such an extent as to compromise ~~their~~ its aerodynamic effectiveness; and
- (~~EE~~) ~~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.*

An owner may be prohibited by the Executive Officer from operating his or her vehicles under the provisions of subsection 95305 if the owner or any of owner's vehicles that are registered exempt short-haul tractors, local-haul tractors, local-haul trailers, or storage trailers are found in violation of the requirements of subsection 95305.

- (a) Short-Haul Tractor Exemption: A short haul tractor is exempt from the requirements of subsections 95303 (a)(1), 95303 (a)(2), and 95303(a)(3) if it's owner complies with the requirements in section 95306, *Short Haul and Local Haul Tractor and Local Haul Trailer Exemption Requirements.*

**Draft Workshop Version: September 29, 2010**

- (1) A short-haul tractor pulling a 53-foot or longer box-type trailer on a California Highway is exempt from the requirements of subsections 95303(a)(1), 95303(a)(2), and 95303(a)(3) upon its owner's submittal of the applicable information identified in section 95306, *Short-Haul Tractor, Local-Haul I Tractor, Local-Haul Trailer, and Storage Trailer Registration Requirements.*
- (2) A 53-foot or longer box-type trailer is exempt from the requirements of subsection 95303(b) while it is being pulled by an exempt short-haul tractor.
- (3) The use of an exempt short-haul tractor in excess of 50,000 miles traveled during the one year period from the date the owner submitted the applicable information identified in subsections 95306(b) through (f) is a violation of this subarticle.
- (4) The driver of an exempt short-haul tractor must, upon request, provide the following information to authorized enforcement personnel identified in section 95308, *Enforcement.*
  - (A) Driver's license;
  - (B) Odometer reading of tractor;
  - (C) Tractor registration;
  - (D) Origin of freight being transported;
  - (E) Destination of freight being transported;
  - (F) If dispatched by a motor carrier, the motor carrier information listed in subsection 95303(g)(1)(B);
  - (G) If dispatched by a broker, the broker information listed in subsection 95303(f)(1)(B); and
  - (H) Vehicle identification number.
- (5) The driver of an exempt short-haul tractor must, upon request, allow authorized enforcement personnel identified in subsection 95308 to directly view the odometer of the exempt short-haul tractor.
- (6) For an exempt short-haul tractor that is removed from an owner's exempt short-haul tractor fleet or is otherwise no longer exempt, the owner must notify the Executive Officer and update the short-haul tractor information submitted in accordance with subsections 95306(d) to reflect this change in status prior to change in ownership of the tractor, or prior to the tractor



**Draft Workshop Version: September 29, 2010**

traveling on a highway within California, 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 is ineligible for the short-haul exemption for 36 months from the date its exempt status was lost.

- (7) A short-haul tractor exemption will remain in effect for a period of one year from the date that the information required in subsections 95306(b) through 95306 (d) and 95306(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 one year from either the expiration date of the exemption, the owner must submit to the Executive Officer the tractor's odometer reading taken at the end of the one year period no more than 15 days after the expiration date of the exemption.
- (8) The owner of more than one short-haul tractor may consolidate the dates to apply for an extension with approval of the Executive Officer.
- (b) *Local-Haul Tractor Exemption.* 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.*
- (1) A local-haul tractor pulling a 53-foot or longer box-type trailer 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 the the local-haul tractor has been registered in accordance with the requirements of section 95306, *Short-Haul Tractor, Local-Haul Tractor, Local-Haul Trailer, and Storage Trailer Registration Requirements* and the tractor-trailer combination is traveling within a 100 miles of the local-haul tractor's local-haul base.
- (2) A 2011 and subsequent model year 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 an exempt local-haul tractor.
- (3) A 2010 and previous model year 53-foot or longer box-type trailer is exempt from the requirements of subsections 95303(b)(3)(B), 95303(b)(3)(C), but still must comply with the requirements of subsections 95303(b)(3)(A) while it is being pulled by an exempt local-haul tractor.

**Draft Workshop Version: September 29, 2010**

- (4) The driver of an exempt local-haul tractor must, upon request, provide the information listed in subsection 95305(a)(4) to authorized enforcement personnel identified in section 95308, *Enforcement*.
  - (5) A local-haul tractor exemption will remain in effect as long as the owner and the exempt tractor remain in compliance with the requirements of this section.
  - (6) The owner of an exempt local-haul tractor must notify the Executive Officer if the information submitted in accordance with subsections 95306(b) through subsection 95306 (d) and subsection 95306(f) has changed, and must submit the updated information to the Executive Officer within 15 days of change.
  - (7) For a local-haul tractor that is removed from an owner's local-haul fleet, taken out of service, or is otherwise no longer exempt, the owner must notify the Executive Officer and update the local-haul tractor information submitted in accordance with subsections 95306(d) to reflect this change in status prior to change in ownership of the tractor or trailer, or prior to the trailer travelling on a highway within California, whichever occurs first.
- (c) *Local-Haul Trailer Exemption.* A local-haul trailer is exempt 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*.
- (1) A 2011 or subsequent model year local-haul 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 if the trailer has been registered in accordance with the requirements of section 95306, *Short-Haul Tractor, Local-Haul Tractor, Local-Haul Trailer, and Storage Trailer Registration Requirements* and the following conditions are met:

    - (A) the local-haul trailer is being pulled by a HD tractor on a California highway within a 100 miles of the local-haul trailer's local-haul base, or
    - (B) the local-haul trailer is being pulled by a HD tractor further than 100 miles from the vehicle's local-haul base for purposes of relocating the local-haul trailer to another local-haul base and the local-haul trailer is empty, or
    - (C) the local-haul trailer is traveling under a valid Relocation Pass.

**Draft Workshop Version: September 29, 2010**

- (2) A 2010 or previous model year local-haul trailer is exempt from the requirements of subsections 95303(b)(3)(B) and 95303(b)(3)(C); but still must comply with the requirements of subsections 95303(b)(3)(A) if the trailer has been registered in accordance with the requirements of section 95306, *Short-Haul Tractor, Local-Haul Tractor, Local-Haul Trailer, and Storage Trailer Registration Requirements* and the following conditions are met:
- (A) the local-haul trailer is being pulled by a HD tractor on a California highway within a 100 miles of the local-haul trailer's local-haul base, or
  - (B) the local-haul trailer is being pulled by a HD tractor further than 100 miles from the vehicle's local-haul base for purposes of relocating the local-haul trailer to another local-haul base and the local-haul trailer is empty, or
  - (C) the local-haul trailer is traveling under a valid Relocation Pass.
- (3) A local-haul trailer exemption will remain in effect as long as the owner and the exempt trailer are in compliance with the requirements of this section.
- (4) The owner of an exempt local-haul trailer must notify the Executive Officer if the information submitted in accordance with subsections 95306(b), 95306 (c), and 95306(e) has changed, and must submit the updated information to the Executive Officer within 15 days of change.
- (5) For an exempt local-haul trailer that is removed from an owner's exempt local-haul fleet, taken out of service, or is otherwise no longer exempt, the owner must notify the Executive Officer and update the local-haul trailer information submitted in accordance with subsection 95306(e) to reflect this change in status prior to change in ownership of the trailer, or prior to the trailer travelling on a highway within California, whichever occurs first.
- (6) The driver of a HD tractor pulling an exempt local-haul trailer must, upon request, allow authorized enforcement personnel to directly view the inside of the trailer.
- (d) ~~*Drayage Tractor Trailer Exemption.* 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).~~
- (1) A drayage tractor pulling a 53-foot or longer box-type trailer on a California highway within 100 miles of a port or intermodal railyard and the trailer it pulls, are exempt from subsections 95303(a) and 95303(b) provided:

**Draft Workshop Version: September 29, 2010**

- (A) the trailer was off-loaded from a ship or rail car at the port or intermodal railyard prior to being pulled by the drayage tractor, and the driver has documentation indicating the port or intermodal railyard of origin; or
  - (B) the drayage tractor is transporting the trailer to the port or intermodal railyard to be loaded onto a ship or rail car, and the driver has documentation indicating the port or intermodal railyard of destination.
- (e) *Storage Trailer Exemption.* ~~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).~~
  - (1) A storage trailer is exempt from the requirements of subsections 95303(b) if the storage trailer has been registered in accordance with the requirements of section 95306, *Short-Haul Tractor, Local-Haul Tractor, Local-Haul Trailer, and Storage Trailer Registration Requirements* and the following conditions have been met:
    - (A) the storage trailer is being pulled by a HD tractor on a California highway for purposes of relocating the storage trailer to another storage location and the storage trailer is empty, or
    - (B) the storage trailer is traveling under a valid Relocation Pass.
  - (2) A storage trailer exemption will remain in effect as long as the owner and the exempt storage trailer are in compliance with the requirements of this section.
  - (3) The owner of an exempt storage trailer must notify the Executive Officer if the information submitted in accordance with subsections 95306(b) and 95306(e) has changed, and must submit the updated information to the Executive Officer within 15 days of the change.
  - (4) For an exempt storage trailer that is removed from an owner's exempt storage trailer fleet, taken out of service, or is otherwise no longer exempt, the owner must notify the Executive Officer and update the exempt storage trailer information submitted in accordance with subsection 95306(e) to reflect this change in status prior to change in ownership of the trailer, or prior to the trailer travelling on a highway within California, whichever occurs first.

**Draft Workshop Version: September 29, 2010**

- (5) The driver of a HD tractor pulling an exempt storage trailer must, upon request, allow authorized enforcement personnel to directly view the inside of the trailer.
- (f) Relocation Pass for Exempt Local-Haul Trailers and Exempt Storage Trailers. 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).
- (1) An owner that obtains a Relocation Pass for an exempt local-haul trailer or an exempt storage trailer may operate that vehicle in accordance with the provisions of subsections 95305 (f)(1)(A) or 95305 (f)(1)(B) for a specified period, as determined **in accordance with subsection 95305(f)(6)** by the Executive Officer, not to exceed **threefive** consecutive days.
- (A) An exempt local-haul trailer traveling under a Relocation Pass may transport freight on a California highway further than 100 miles from its local haul base while either en route to a new local haul base where it will operate as an exempt local-haul trailer or en route to an out-of-state location.
- (B) An exempt storage trailer traveling under a Relocation Pass may transport freight on a California highway while either en route to a new storage location where it will operate as an exempt storage trailer or en route to an out-of-state location.
- (2) An owner that obtains a Relocation Pass for a 53-foot-or-longer box-type trailer located out-of-state may operate that vehicle on a California highway in accordance with the provisions of subsection 95305 (f)(2)(A) for a specified period, as determined **in accordance with subsection 95305(f)(6)** by the Executive Officer, not to exceed **threefive** consecutive days.
- (A) A 53-foot or longer box-type trailer traveling under a Relocation Pass is exempt from the requirements of this subsection 95303 (b) while either en route from an out-of-state location to a local-haul base where it will operate as a registered local-haul trailer, or en route from an out of-state location to a storage location where it will operate as a registered storage trailer
- (3) If traveling to a local-haul base or storage location under Relocation Pass, within 48 hours after arrival at the local-haul base or storage location, the owner of the 53-foot or longer box-type trailer must register the trailer in accordance with the requirements of section, 95306, *Short-Haul Tractor, Local-Haul Tractor, Local-Haul Trailer, and Storage Trailer Registration*

Draft Workshop Version: September 29, 2010

Requirements and operate the trailer as a local-haul trailer or storage trailer for at least 30 consecutive days after arrival.

- (4) To obtain a Relocation Pass, a request to the Executive Officer must be made no less than 15 days prior to its relocation. In the request, the owner must provide the Executive Officer the following information:
- (A) Owner contact information, as specified in subsection 95306 (b).
  - (B) Trailer vehicle identification number (VIN).
  - (C) For an trailer relocating to new local-haul base, the street address of the new local-haul base.
  - (D) For a trailer relocating to a new storage location, the street address of new storage trailer location.
  - (E) *A designated period of 30 consecutive days in which the relocation trip is anticipated to occur, to be supplemented by subsequent notice by the owner of the specific date Date within such 30-day period upon which the trailer will begin relocation travel.*
- (5) No trailer will be granted more than four Relocation Passes per year.
- (6) The Executive Officer will respond to a request for a Relocation Pass within 15 days of receiving the information identified in subsection 95305 (f)(4) and notify the owner in writing of the decision.
- (A) If approved, The Executive Officer will provide the owner with a Relocation Pass in electronic or written format that will contain the following information:
    - 1. Effective dates of the *Relocation Pass, specifying the 30-day effective period requested in accordance with subsection 95305(f)(4)(E) above, with the specific date upon which relocation travel will begin to be set by notice thereof from owner to The Executive Officer which shall not exceed threethirty consecutive days beginning with the date the trailer will begin travel.*
    - 2. Relocation Pass Approval Number.
  - (B) *Approval of the Relocation Pass will be contingent upon receipt by the Executive Officer of notice from the owner identifying the specific date upon which the trailer will begin relocation travel. Upon receiving such information, the*

**Relocation Pass will be deemed approved and effective for a period not to exceed five days from the date set by owner for commencement of relocation travel.**

(g) Transfer of Ownership Pass for Trailers.

- (1) The current owner of a 53-foot or longer box-type trailer that has transferred ownership of that trailer to a new owner may obtain a Transfer of Ownership pass for that trailer.
- (2) A 53-foot or longer box-type trailer traveling under a Transfer of Ownership Pass while being pulled by a HD tractor on a highway within California is temporarily exempt from the requirements of subsections 95303(b) during the delivery of that trailer from the current owner to the new owner.
- (3) To obtain a Transfer of Ownership Pass, a request to the Executive Officer must be made by the current owner no less than 15 days prior to the start of trailer delivery from the current owner to the new owner. In the request, the current owner must provide the Executive Officer the following information for each trailer :
  - (A) Current owner's contact information:
    1. Current owner's name, and if a business entity or governmental agency is selling the trailer, the responsible official and title (if applicable);
    2. Name of current owners's company, corporation, or governmental agency (if applicable);
    3. Corporate parent (if applicable);
    4. Motor carrier identification number and type (if applicable);
    5. Dealer license number and state where it was issued (if applicable);
    6. Street address of current owner or current 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;

**Draft Workshop Version: September 29, 2010**

8. Physical address of location where records pertaining to the applicable sale will be maintained including city, state or province, zip code, colonia (Mexico only), and country;
9. Current owner's name;
10. Telephone number of contact person;
11. Email address of contact person (if available);
12. Company taxpayer identification number (if applicable); and
13. TRUCRS identification number of corporate parent (if one has been obtained).

**(B) New owner's contact information:**

1. New owner's name, and if a business entity or governmental agency is selling the trailer, the responsible official and title (if applicable);
2. Name of new owner's company, corporation, or governmental agency (if applicable);
3. Corporate parent (if applicable);
4. Motor carrier identification number and type (if applicable);
5. Dealer license number and state where it was issued (if applicable);
6. Street address of new owner or new 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 sale will be maintained including city, state or province, zip code, colonia (Mexico only), and country;
9. New owner's contact person's name;
10. Telephone number of contact person;
11. Email address of contact person (if available);



**Draft Workshop Version: September 29, 2010**

- 12. Company taxpayer identification number (if applicable); and
  - 13. TRUCRS identification number of corporate parent (if one has been obtained).
  - (C) Trailer identification number (VIN).
  - (D) Address of location of trailer prior to start of delivery.
  - (E) Address of location of trailer when delivery is complete.
  - (F) Date when trailer is scheduled to begin travel on a California highway under the Transfer of Ownership Pass.
  - (G) Date when trailer is scheduled to end travel on a California highway under the Transfer of Ownership Pass.
  - (H) If the total length of time from when the trailer is scheduled to begin travel on a California highway under the Transfer of Ownership Pass to when the trailer is scheduled to end travel on a California highway under the Transfer of Ownership Pass is greater than **threefive** consecutive days, the the Executive Officer may request additional information from the current owner.
- (4) For transfers of ownership where the current owner or new owner is not a licensed vehicle dealer, once a Transfer of Ownership Pass has been approved for a trailer, the current owner and new owner are no longer jointly eligible for another Transfer of Ownership Pass for that same trailer until one year has passed from the last effective date of the approved Transfer of Ownership Pass.
  - (5) For transfers of ownership where the current owner or new owner is a licensed vehicle dealer, once a Transfer of Ownership Pass has been approved for a trailer, the current owner and new owner jointly eligible for only one additional Transfer of Ownership Pass for that same trailer within the one year period that begins with the last effective date of the first approved Transfer of Ownership Pass.
  - (6) The Executive Officer will respond to a request for a Transfer of Ownership Pass within 15 days of receiving the information identified in subsection 95305(g)(3) and notify the current owner in writing of the decision.
    - (A) If approved, The Executive Officer will provide the owner with a Transfer of Ownership Pass in electronic or written format that will contain the following information:

**Draft Workshop Version: September 29, 2010**

1. Effective dates of the Transfer of Ownership Pass.

2. Transfer of Ownership Pass Approval Number.

(h) *Non-compliant Tractor Pass* A drayage tractor pulling a 53-foot or longer box-type trailer within 100 miles of the port or intermodal rail yard of origin or destination and the trailer it pulls, are exempt from sections 95303(a) and (b).

(1) Until January 1, 2015, a HD tractor traveling under a Non-compliant Tractor Pass while pulling a 53-foot or longer box-type trailer on a highway within California is temporarily exempt from the requirements of subsection 95303(a) for a specified period, as determined by the Executive Officer, not to exceed **threefive** consecutive days.

(2) A 53-foot or longer box-type trailer pulled by a HD tractor traveling under a Non-compliant Tractor Pass on a highway within California is temporarily exempt from the requirements of subsection 95303(b) for a specified period, as determined by the Executive Officer, not to exceed **threefive** consecutive days.

(3) To obtain an Non-compliant Tractor Pass, the tractor owner must make a request to the Executive Officer no less than 15 days prior to travel. In the request, the owner must provide the following information for each tractor.

(A) Owner contact information, as specified in subsection 95306 (b).

(B) Tractor identification number (VIN).

(C) Date tractor begins travel or enters California, if traveling from out of state, under the Non-compliant Tractor Pass.

(5) No owner will be granted more than one Non-compliant Tractor Pass per year

(6) Only one tractor per fleet operating under a common USDOT number, motor carrier identification number, or IRP fleet number will be granted a Non-compliant Tractor Pass per year.

(7) The Executive Officer will respond to a request for a Non-compliant Tractor Pass within 15 days of receiving the information identified in subsection 95305(i)(3) and notify the current owner in writing of the decision.

(A) If approved, The Executive Officer will provide the owner with a Non-compliant Tractor Pass in electronic or written format that will contain the following information:

1. Effective dates of the Non-compliant Tractor Pass.
2. Non-compliant Tractor Pass Approval Number.

(i) **Non-compliant Trailer Relocation Pass**

- (1) **A 53-foot or longer box-type trailer traveling on a highway within California may transport freight on a California highway and is exempt from the requirements of subsection 95303(b) and 95306 if the following conditions have been met:**
  - (A) **The trailer is traveling under a valid Non-compliant Trailer Relocation Pass obtained in accordance with subsection 95305(i)(2), and**
  - (B) **Either:**
    1. **The trailer is being relocated to a lessee's location for use as a local-haul trailer or for use as a storage trailer or is being relocated to one of the lessor's locations for future leasing as a local haul trailer or storage trailer, or**
    2. **The trailer being relocated to an out-of-state location, or**
    3. **The trailer is traveling for any other purpose identified by the owner or lessor which is deemed appropriate by the Executive Officer.**
- (2) **To obtain a Non-compliant Trailer Relocation Pass, the lessor or owner (as appropriate) of the trailer must make a request to the Executive Officer no less than 15 days prior to travel. In the request, the lessor or owner (as appropriate) must provide the following information for each trailer:**
  - (A) **Lessor or owner (as appropriate) contact information, as specified in subsection 95306(b).**
  - (B) **Trailer identification number (VIN).**
  - (C) **The street address of the trailer's destination.**
  - (D) **Approximate date the trailer will begin relocation travel or enter California, if traveling from out of state, under the Non-compliant Trailer Relocation Pass.**
  - (E) **The basis for the request of the Non-compliant Trailer Relocation Pass, either:**

1. The lessor is requesting the Non-compliant Trailer Relocation Pass for a trailer that is intended to be used as a storage trailer or a local-haul trailer and is being relocated to a lessee's location or relocated to one of the lessor's locations for future leasing, or
  2. The lessor is requesting the Non-compliant Trailer Relocation Pass for a trailer that is being relocated to an out-of-state location, or
  3. The lessor or owner is requesting the Non-compliant Trailer Relocation Pass for a trailer that is being relocated for another purpose which the Executive Officer deems appropriate prior to granting the Non-compliant Trailer Relocation Pass.
- (3) A Non-compliant Trailer Relocation Pass will remain in effect as long as the lessor or owner (as appropriate) and the trailer are in compliance with the requirements of this section.
- (4) The Executive Officer will respond to a request for a Non-compliant Trailer Relocation Pass within 15 days of receiving the information identified in subsection 93505(i)(2) and notify the lessor or owner (as appropriate) in writing of the decision.
- (A) If approved, The Executive Officer will provide the lessor or owner (as appropriate) with a Non-Compliant Trailer Relocation Pass in electronic or written format that will contain the following information:
1. Effective date of the Non-compliant Trailer Relocation Pass.
  2. Non-compliant Trailer Relocation Pass Approval Number.
- (i) Trailer Aerodynamic Equipment Compliance Delay
- (1) An owner of a dry-van or refrigerated-van trailer that is subject to the requirements of subsection 95303(b) may apply for a Trailer Aerodynamic Equipment Compliance Delay if the trailer is configured such that the existing aerodynamic technologies or combination of aerodynamic technologies that meet the requirements defined in subsections 95303(b)(1)(B)(2) for dry-van trailers or 95303(b)(2)(B)(2) for refrigerated-van trailers cannot be installed.

**Draft Workshop Version: September 29, 2010**

(2) A trailer identified in a Trailer Aerodynamic Equipment Compliance Delay is subject to the following compliance deadlines

(A) For a trailer not participating in an optional trailer fleet compliance schedule, the applicable compliance date is one year from the trailer's current compliance date, or one year from the Trailer Aerodynamic Equipment Compliance Delay approval date, whichever is later.

(B) For a trailer participating in an optional trailer fleet compliance schedule as defined in subsection 95307, *Optional Trailer Fleet Compliance Schedules*, the applicable compliance date is one year from the applicable Conformance Threshold Deadline for that trailer, provided all other trailers in the fleet have been brought into compliance.

(3) To apply for a Trailer Aerodynamic Equipment Compliance Delay, an owner must provide the Executive Officer the following information

(A) Owner contact information

1. Trailer owner's name, and if a business entity or governmental agency owns the trailer, the responsible official and title (if applicable);
2. Street address of owner or owner's company including city, state or province, zip code, colonia (Mexico only), and country;
3. Mailing address including city, state or province, zip code, colonia (Mexico only), and country;
4. Owner contact person's name;
5. Telephone number of contact person;
6. Email address of contact person (if available);
7. TRUCRS identification number (if applicable)

(B) Trailer Information (for each candidate compliance delay trailer)

1. Trailer vehicle identification number (VIN).
2. Trailer participating in Optional Compliance Schedule? (Y or N)

**Draft Workshop Version: September 29, 2010**

3. Current scheduled compliance date of trailers.
  4. Narrative description of why exemption is necessary. Description should clearly explain why all available aerodynamic technologies that meets the requirements defined in subsections 95303(b)(1)(B)(2)a. or 95303(b)(2)(B)(2)a. cannot be installed on the trailer, and why modification of such technologies is infeasible without compromising the aerodynamic effectiveness of the technology or technologies.
  5. Additional supporting materials as requested by the Executive Officer.
- (4) Applications for a Trailer Aerodynamic Equipment Compliance Delay can be submitted to the Executive Officer in written or electronic format no sooner than one year prior to the trailer's current compliance date.
  - (5) The Executive Officer will respond to the application for a Trailer Aerodynamic Equipment Compliance Delay within 30 days of receipt of the application, and notify the applicant in writing of the decision.
    - (A) If the Executive Officer determines that the candidate trailer(s) identified in the application can be equipped with an aerodynamic technology that meets the requirements defined in subsections 95303(b)(1)(B)(2) or 95303(b)(2)(B)(2), the application will be denied.
    - (B) If approved, the Executive Officer will notify the applicant in writing of the new effective compliance dates for those trailers identified in the application.
  - (6) The applicant may request an extension to the approved Trailer Aerodynamic Equipment Compliance Delay compliance dates no sooner than 30 days prior to the the new effective compliance dates.

(j)

(k) Exemption for Tractors with Open-shoulder Drive Tires

- (1) A HD tractor pulling a 53-foot or longer box-type trailer subject to the requirements of subsection 95303(a) may operate on a highway within California with two or more open-shoulder drive tires that are not SmartWay Verified Technologies, provided that each of the open-shoulder drive tires was manufactured no more than two calendar years after the verification date of the initial Smartway verified open-shoulder drive tire.

**Draft Workshop Version: September 29, 2010**

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 Tractor, and Local-Haul Tractor, and Local-Haul Trailer, and Storage Trailer Exemption Registration Requirements.

- (a) To qualify for ~~any~~ exemptions in subsections 95305 (a), 95305(b) ~~or~~, 95305(c), or 95305(e), the owner of a HD tractor or the owner of a 53-foot or longer box-type trailer must submit to the Executive Officer all applicable information and statements identified in subsections 95306(b) through (f) ~~and must comply with subsections (g) through (e)~~.
- (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) Local-haul or storage 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) 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;~~
  - (98) Owner contact person's name;
  - ~~(109)~~ Telephone number of ~~owner or owner's company~~ contact person;
  - ~~(1410)~~ Email address of ~~owner or owner's company~~ contact person (if available);
  - ~~(14211)~~ Company taxpayer identification number (if applicable); and

**Draft Workshop Version: September 29, 2010**

- (4312) ~~DOORSTRUCRS~~ 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 person's name;
  - (2) Contact person's title;
  - (3) Street address of local-haul base including city, state, zip code, colonia (Mexico only), and country; and
  - (4) Telephone number of local-haul base.
- (d) *Short-haul or Local-haul Tractor Fleet Information*. For each tractor to be exempted, 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);
  - (9) License plate number;
  - (10) For short-haul tractors: Odometer reading; and
  - (11) For local-haul tractors: tractor's local-haul base street address, including city, state, and zip code.
- (e) *Local-haul and Storage Trailer Fleet Information*. For each trailer to be exempted, the following information:



**Draft Workshop Version: September 29, 2010**

- (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);
  - (9) License plate number; and
  - (10) For a local-haul trailer only, the local-haul tTrailer's local-haul base street address, including city, state, and zip code.
- (f) A dated written submittal by the owner with the information required by subsections 95306(b) through 95306(e) and one or all of the following statements, as applicable:
- (1) For all local-haul trailers and tractors:

*I agree to strictly limit ~~the 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 submittal. I understand that if I transport any freight in the trailer[s] when pulling it[them] on California highways outside the 100-mile radius, the tractor[s] [or trailer[s]] may lose exempt status operation of the equipment outside this area will be a and I may be subject to possible enforcement actions for violations of sections 95300-95314U2, title 17, California Code of Regulations. I also understand that I am allowed to relocate the trailer[s] to a new location, but only if the trailer[s] is [are] empty or I have obtained a Relocation Pass[es] for the trailer[s]. If stopped for inspection by an agent or employee of the ARB, I will allow inspection of the inside[s] of the trailer[s]. I declare under penalty of perjury that the information provided is true, accurate and complete.*

- (2) For short-haul tractors:

*"I agree to limit use of this [or these] tractor[s] to 50,000 or fewer miles per year . I understand that operation of the equipment for*

**Draft Workshop Version: September 29, 2010**

*more than 50,000 miles per year ~~will be a~~ may result in loss of exempt status and possible enforcement actions for violations of sections 95300-95314~~2~~, title 17, California Code of Regulations. I declare under penalty of perjury that the information provided is true, accurate and complete.”*

(3) For storage trailers:

*“I agree to limit use of this [or these] trailer[s] exclusively for the storage of items at a fixed location. I understand that I am allowed to relocate the trailer[s] to a new location, but only if the trailer[s] is [are] empty or I have obtained a Relocation Pass[es] for the trailer[s]. Without a Relocation Pass, if I transport any items in the trailer[s] when pulling it[them] on California highways, the trailer[s] may lose exempt status , which may result in enforcement action for violations of sections 95300-95312, title 17, California Code of Regulations. If stopped for inspection by an agent or employee of the ARB, I will allow inspection of the inside[s] of the trailer[s]. I declare under penalty of perjury that the information provided 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) — 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 a highway within California, 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 a highway within California, 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.~~

**Draft Workshop Version: September 29, 2010**

- ~~(j) — 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.~~
- ~~(k) — The driver of an exempt short haul or local haul 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 95308:
  - ~~(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 listed in subsection 95303(g)(1)(B);~~
  - ~~(7) — If dispatched by a broker, the broker information listed in subsection 95303(f)(1)(B); and~~
  - ~~(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) at a location 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) at a location 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.

**Draft Workshop Version: September 29, 2010**

95307 *Optional Trailer Fleet Compliance Schedules.*

(a) *Trailer Fleet Compliance Schedule Applicability.*

- (1) As specified in subsection 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) Trailers participating in Option 1: the large fleet compliance schedule specified in subsection 95307(b)(1), must be acquired by the fleet owner prior to July 1, 2010.
- (3) Trailers participating in Option 2: the large fleet compliance schedule specified in subsection 95307(b)(2) must be acquired by the fleet owner prior to July 1, 2011.
- (4) Trailers participating in the small fleet compliance schedule specified in subsection 95307(c) must be acquired by the fleet owner prior to July, 1, 2012.
- (25) 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 subsection 95303(b)(3)(B)~~2~~.
- (36) *Applicable Compliance Schedules.*
  - (A) A fleet owner with a trailer fleet size of 21 or more trailers, as determined in accordance with subsection 95307(a)(2) above, may only elect to participate in either of the following two compliance schedule options. A large fleet owner who does not register for one of these options must bring all trailers in the fleet into compliance as specified in subsection 95303(b)(3)(B) or subsection

**Draft Workshop Version: September 29, 2010**

~~95303(b)(3)(F) the large fleet compliance schedule, specified in subsection (b).~~

1. Option 1: the large fleet compliance schedule specified in subsection 95307(b)(1), beginning January 1, 2011, or
2. Option 2: the large fleet compliance schedule specified in subsection 95307(b)(2), beginning January 1, 2012.

(B) A fleet owner with a trailer fleet size of 20 or fewer trailers may elect to participate~~has the option of participating~~ in either of the large fleet compliance schedules in subsection 95307(b), or in the small fleet compliance schedule, specified in subsections (b) and (c), respectively.

*(b) Large Fleet Compliance Schedule.*

(1) ~~Minimum fleet 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 (d)(3), is equal to or greater than:~~Option 1: the large fleet compliance schedule beginning January 1, 2011

(A) ~~5 percent beginning January 1, 2011;~~Minimum fleet conformance thresholds (Table 1): A trailer owner participating in this large fleet compliance schedule must ensure that the percentage of compliant trailers on the compliance plan base list, as described in subsection 95307(d)(3), is equal to or greater than:

~~(B) 15 percent beginning January 1, 2012;~~

~~(C) 30 percent beginning January 1, 2013;~~

~~(D) 50 percent beginning January 1, 2014;~~

~~(E) 75 percent beginning January 1, 2015; and~~

~~(F) 100 percent beginning January 1, 2016.~~

1. 5 percent beginning January 1, 2011;

2. 15 percent beginning January 1, 2012;

3. 30 percent beginning January 1, 2013;

4. 50 percent beginning January 1, 2014;

5. 75 percent beginning January 1, 2015; and

6. 100 percent beginning January 1, 2016.

**Table 1: Minimum Fleet Conformance Thresholds for the Large Fleet Compliance Schedule (Option 1)**

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

(2) Option 2: the large fleet compliance schedule beginning January 1, 2012

(A) Minimum fleet conformance thresholds (Table 2): 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 described in subsection 95307(d)(3), is equal to or greater than:

1. 20 percent beginning January 1, 2012;
2. 40 percent beginning January 1, 2013;
3. 60 percent beginning January 1, 2014;
4. 80 percent beginning January 1, 2015; and
5. 100 percent beginning January 1, 2016.

**Table 2: Minimum Fleet Conformance Thresholds for the Large Fleet Compliance Schedule (Option 2)**

Compliance Year (Y)	Minimum Fleet Conformance Threshold (P <sub>Y</sub> )	Conformance Threshold Deadline
<u>2010</u>	<u>---</u>	<u>---</u>
<u>2011</u>	<u>20%</u>	<u>January 1, 2012</u>
<u>2012</u>	<u>40%</u>	<u>January 1, 2013</u>
<u>2013</u>	<u>60%</u>	<u>January 1, 2014</u>
<u>2014</u>	<u>80%</u>	<u>January 1, 2015</u>
<u>2015</u>	<u>100%</u>	<u>January 1, 2016</u>

**Draft Workshop Version: September 29, 2010**

- (23) ~~Large fleet compliance plan:~~ To participate in either Option 1 or Option 2 ~~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 for Option 1, and by July 1, 2011 for Option 2. This submittal must include the following:
- (A) Statement of intent, in accordance with subsection 95307(d)(1);
  - (B) Trailer fleet list, in accordance with subsection 95307(d)(2);
  - (C) Large fleet compliance plan base number, calculated in accordance with subsection 95307(e)(1);
  - (D) Compliance plan base list, in accordance with subsection 95307(d)(3);
  - (E) Annual conformance number for each compliance year, calculated in accordance with subsection 95307(e)(5); and
  - ~~(F) Annual conformance commitment list for each compliance year, in accordance with subsection (d)(4); and~~
  - ~~(G)~~ (F) Early compliance option reporting, if applicable: If a trailer owner elects to delay the compliance of trailers in accordance with subsection 95307(b)(4), 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 95307(b)(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. Delayed compliance trailer number, calculated in accordance with subsection 95307(e)(3); and
    - 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 the annual conformance commitment lists reported for compliance years 2013, 2014, and 2015, electronically or by submitting a document titled, “Large Fleet Compliance Plan Revision,” by July 1, 2013.

**Draft Workshop Version: September 29, 2010**

~~Although this allows a trailer owner to redistribute trailers among the final three annual conformance commitment lists, the trailer owner may not alter the number of trailers identified on each list. 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: 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 replacement of 1.5 non-compliant trailers until December 31, 2016.
  - (A) Maximum allowable number of early compliance trailers, as calculated in accordance with subsection 95307(e)(4): The number of early compliance trailers within a fleet may not exceed the equivalent of 20 percent of the sum of: 1) all trailers that the owner elects to bring into compliance under the large fleet compliance schedule and 2) the total number of trailers within the fleet that are in compliance before January 1, 2010.
  - (B) A trailer owner must bring all delayed compliance trailers into compliance 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 95307(b)(23)(G), as part of the large fleet compliance plan by July 1, 2010 for Option 1, and by July 1, 2011 for Option 2.

(c) *Small Fleet Compliance Schedule.*

- (1) Minimum fleet 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 95307(d)(3), is equal to or greater than:
  - (A) 25 percent beginning January 1, 2014;
  - (B) 50 percent beginning January 1, 2015;
  - (C) 75 percent beginning January 1, 2016; and
  - (D) 100 percent beginning January 1, 2017.

**Table 23: Minimum Fleet Conformance Thresholds  
for the Small Fleet Compliance Schedule**



**Draft Workshop Version: September 29, 2010**

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

- (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 submittal must include the following:
- (A) Statement of intent, in accordance with subsection 95307(d)(1);
  - (B) Trailer fleet list, in accordance with subsection 95307(d)(2);
  - (C) Small fleet compliance plan base number, calculated in accordance with subsection 95307(e)(2);
  - (D) Compliance plan base list, in accordance with subsection 95307(d)(3); and
  - (E) Annual conformance number for each compliance year, calculated in accordance with subsection 95307(e)(5); ~~and~~
  - ~~(F) Annual conformance commitment list for each compliance year, in accordance with (d)(4).~~

*(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. 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 the owner's trailer fleet contains 20 or fewer 53-foot or longer box-type trailers;

**Draft Workshop Version: September 29, 2010**

- (D) A statement affirming that the trailer owner will bring all 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;
  - (G) A statement affirming that the trailer owner understands that if participation in an applicable trailer fleet compliance schedule is withdrawn, such owner will not be allowed to operate a non-compliant trailer on a highway within California beginning January 1, 2013, except for refrigerated-van trailers that are eligible for the compliance deadlines set forth in subsection 95303(b)(3)(BF)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; and
  - (I) A signature, or electronic attestation, of the trailer owner or, where applicable, a 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. 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:

**Draft Workshop Version: September 29, 2010**

- (A) Name of trailer fleet owner, or responsible official and title if the owner is a business entity or governmental agency;
- (B) Name of company, corporation, or governmental agency;
- (C) Company's motor carrier identification number and type, if applicable;
- (D) 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) Contact person's name;
- (H) Telephone number;
- (I) Email address (if available);
- (J) Company taxpayer identification number (if applicable);
- (K) Name of corporate parent (if applicable);
- (L) ~~DOORSTRUCRS~~ identification number of corporate parent (if applicable);
- (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 while the owner is participating in an optional trailer fleet compliance schedule:
  - 1. For an owner who elects to participate in one of the large fleet compliance schedules, the trailer list must include all trailers that will operate in California including compliant trailers, noncompliant trailers, exempted trailers, and refrigerated-van trailers that are eligible for the compliance deadlines set forth in subsection 95303(b)(3)(BE)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-

**Draft Workshop Version: September 29, 2010**

van trailers that are eligible for the compliance deadlines set forth in subsection 95303(b)(3)(BF)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 a highway within California;

- (N) For each trailer listed, provide the following:
1. Trailer type (dry van or refrigerated van);
  2. Vehicle identification number (VIN);
  3. Trailer make;
  4. Trailer model;
  5. Trailer model year;
  6. License plate number;
  7. State or province of registration;
  8. Registration type (state, IRP, temporary, seasonal, monthly, or other);
  9. Country of registration;
  10. Compliance status (compliant or non-compliant) ;
  11. Exemption Status (not exempt, exempt local-haul, ~~exempt~~ exempt storage, 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)-;
  13. Transport refrigeration unit model year (as applicable); and
  14. Transport refrigeration unit engine model year (as applicable).
- (3) Compliance plan base list: The compliance plan base list is the list of all non-compliant trailers identified on the trailer fleet list 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

**Draft Workshop Version: September 29, 2010**

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 and storage trailers exempt under subsection 95305(c) and 95305(e);
- (B) Refrigerated-van trailers that are eligible for the compliance deadlines set forth in subsection 95303(b)(3)(F)(B)2;
- (C) Early compliance trailers, if applicable;
- (D) Delayed compliance trailers, if applicable; and
- (E) Trailers that will not operate in California for the duration of the applicable trailer fleet compliance schedule.

~~(4) Annual conformance commitment list: The annual conformance commitment list for a particular compliance year is the list of trailers on 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. For each compliance year's annual conformance commitment list, the trailer owner must list a sufficient number of trailers to meet or exceed the annual conformance number for that same year.~~

(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.

$$N_{LB} = N_T - N_D - N_E - N_R - N_X \quad (\text{Equation 1})$$

" $N_{LB}$ " = Large fleet compliance plan base number.

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

" $N_D$ " = Number of delayed compliance trailers, as determined in accordance with subsection 95307(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.

**Draft Workshop Version: September 29, 2010**

“N<sub>R</sub>” = Number of refrigerated-van trailers that are eligible for the compliance deadlines set forth in subsections (b)(3)(BF)2-a1. through 95303(b)(3)(BF)2-e3., if applicable.

“N<sub>X</sub>” = Number of trailers with a trailer fleet list exemption status of ~~“exempt local-haul-exempt,”~~ “exempt storage,” “dedicated to short-haul tractors,” or “dedicated to local-haul tractors,” 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<sub>CA</sub>” = Total number of trailers in California fleet.

“N<sub>T</sub>” = Total number of trailers listed on the trailer fleet list.

“N<sub>NC</sub>” = Number of trailers that will not operate in California for the duration of an applicable trailer fleet compliance schedule

$$N_{SB} = N_{CA} - N_R - N_X \quad (\text{Equation 3})$$

“N<sub>SB</sub>” = Small fleet compliance plan base number.

“N<sub>CA</sub>” = Total number of trailers in California fleet, as determined in accordance with Equation 2.

“N<sub>R</sub>” = Number of refrigerated-van trailers that are eligible for the compliance deadlines set forth in subsections (b)(3)(BF)2-a1. through 95303(b)(3)(BF)2-e3., if applicable.

“N<sub>X</sub>” = Number of trailers with a trailer fleet list exemption status of ~~“exempt local-haul-exempt,”~~ “exempt storage,” “dedicated to short-haul tractors,” or “dedicated to local-haul tractors,” if applicable.

- (3) Large fleet delayed compliance trailer number: The delayed compliance trailer number is the number of trailers for which compliance may be delayed , pursuant to subsection 95307(b)(4), *Early Compliance Option*.

$$N_D = N_E \times 1.5 (\text{Equation 4})$$

“N<sub>D</sub>” = Number of delayed compliance trailers, if applicable. If N<sub>D</sub> is not a whole number, round down to the next whole number.

**Draft Workshop Version: September 29, 2010**

“N<sub>E</sub>” = Number of early compliance trailers, not to exceed N<sub>E, max</sub> as determined in accordance with Equation 5, if applicable.

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

$$N_{E, \max} = (N_T - N_R - N_X) \times 0.20 \text{ (Equation 5).}$$

“N<sub>E, max</sub>” = Maximum allowable number of early compliance trailers. If N<sub>E, max</sub> is not a whole number, round down to the next whole number.

“N<sub>T</sub>” = Total number of trailers listed on the trailer fleet list.

“N<sub>R</sub>” = Number of refrigerated-van trailers that are eligible for the compliance deadlines set forth in subsections 95303(b)(3)(BF)2-a1, through 95303(b)(3)(BF)2-c3, if applicable.

“N<sub>X</sub>” = Number of trailers with a trailer fleet list exemption status of “exempt local-haul-exempt,” “exempt storage,” “dedicated to short-haul tractors,” or “dedicated to local-haul tractors,” if applicable.

- (5) Annual conformance number: The annual 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 conformance threshold that takes effect on January 1 of the following year.

$$N_Y = (N_B \times P_Y) - N_{C, Y-1} \quad \text{(Equation 6)}$$

“N<sub>Y</sub>” = Annual conformance number for compliance year Y. If N<sub>Y</sub> 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<sub>B</sub>” = The compliance plan base number, either N<sub>LB</sub> as calculated in subsection 95307(e)(1) for a large fleet or N<sub>SB</sub> as calculated in subsection 95307(e)(2) for a small fleet.

“P<sub>Y</sub>” = Minimum fleet conformance threshold for compliance year Y, as defined in subsection 95307(b)(1) for large fleets and 95307(c)(1) for small fleets, expressed as a fraction (e.g. 5 percent is entered into equation as 0.05).

**Draft Workshop Version: September 29, 2010**

“ $N_{C, Y-1}$ ” = Total number of trailers within the compliance base that would already be in compliance prior to January 1 of compliance year Y. This number must not include early compliance trailers.

(f) Reporting Requirements

(1) For each trailer listed in the compliance plan base list that is or will be brought into compliance in a specific compliance year, the owner must provide the trailer identification number (vehicle identification number (VIN)) and the applicable compliance method for the trailer as defined in (A) or (B) below, to the Executive Officer by no later than December 31st of that year.

(A) Trailer is or will be equipped with aerodynamic devices that meet the requirements defined in subsection 95303(b)(3), or

(B) Trailer is no longer part of the owner’s fleet.

(2) For each trailer listed in the compliance plan base list that is or will be re-designated into local-haul or storage trailer service in a specific compliance year, the owner must provide the trailer identification number (vehicle identification number (VIN)) to the Executive Officer by no later than December 31st of that year; and meet all applicable requirements specified in sections 95305 and 95306. Trailers redesignated into local-haul or storage trailer service do not count toward meeting an annual conformance number.

(fg) General Requirements for All Compliance Schedules: To participate in a 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 on the owner’s compliance plan base list is equal to or greater than the applicable minimum fleet conformance threshold for that compliance year;

(2) The trailer owner must ensure that the number of trailers listed on each compliance year’s annual conformance commitment list brought into compliance is equal to or greater than the annual conformance number for that same year;

(3) The trailer owner must bring into compliance all trailers listed in each compliance year’s annual conformance commitment list before January 1 of the following year;

(43) The trailer owner must allow the Executive Officer, or any other authorized enforcement personnel, to conduct periodic audits of records and



**Draft Workshop Version: September 29, 2010**

equipment to verify compliance with an applicable compliance schedule, the owner's compliance plan, and other applicable air quality regulations;

- (54) 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;
- (65) Starting January 1, 2013, except for eligible refrigerated-van trailers that the trailer owner elects to bring into compliance in accordance with subsection 95303(b)(3)(F)(B)2 and exempted trailers, a trailer owner may not allow the operation of a non-compliant trailer on a highway within California if such owner withdraws participation from an applicable trailer fleet compliance schedule;
- (76) 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;
- (87) The trailer owner must ensure that all information and documentation provided to the Executive Officer is accurate and true;
- (98) The trailer owner must ensure that all required information and documentation is received by the Executive Officer by the applicable due dates; the Executive Officer will not be responsible for materials lost in transit;
- ~~(10) If participating in one of the large fleet compliance schedules, 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;~~
- (149) The trailer owner must maintain all documentation pertaining to an applicable compliance schedule at the location indicated on the trailer fleet list;
- (1210) Upon the request of the Executive Officer or other authorized enforcement personnel, the trailer owner must provide all information and documentation necessary to verify compliance with 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;

**Draft Workshop Version: September 29, 2010**

(4311) 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 highway within California 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 subsection 95303(b)(3)(~~BF~~)<sup>2</sup>, or exempt under section 95305;

(4412) A trailer owner may not allow the operation of a non-compliant trailer on a highway within California after December 31 of the compliance year in which the trailer is ~~scheduled to be~~ brought into compliance;

~~(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;~~

(4613) ~~Except as provided in subsection (b)(3), a~~ 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;

(4714) 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;

(4815) The Executive Officer may make non-confidential information provided pursuant to an optional trailer fleet compliance schedule available to the

**Draft Workshop Version: September 29, 2010**

public for the purpose of helping determine the compliance status of a trailer or fleet;

- (~~19~~16) 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~~17) A trailer owner who is participating in one of the large fleet compliance schedules may not allow a trailer subject to the requirements of this subarticle to operate on a highway within California after July 1, 2010 if participating in Option 1, or July 1, 2011 if participating in Option 2, 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 subsection 95303 (b)(3)(~~BF~~)<sup>2</sup> and such deadline has not yet passed; or
  - (D) the trailer is exempt under section 95305;
- (~~21~~18) Any violation of the requirements of this subsection constitutes a violation of this subarticle.
- (19) A trailer owner who has elected to participate in Option 1 and submitted information in accordance with subsection 95307(b)(3), may withdraw that information submittal no later than June 30, 2011, and elect to participate in Option 2.
- (20) A trailer owner that has identified an exempt storage trailer or an exempt local-haul trailer in his or her trailer fleet list in accordance with subsection 95307(d)(2)(N), must register that trailer in accordance with the requirements of section 95306, *Short-Haul Tractor, Local-Haul Tractor, Local-Haul Trailer, and Storage Trailer Registration Requirements by July 1, 2010 if participating in Option 1, by July 1, 2011 if participating in Option 2, and by July 1, 2012 if submitting a Small Fleet Compliance Plan.*

## Draft Workshop Version: September 29, 2010

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 *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.

### 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,~~ and California-licensed vehicle dealers 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.

### 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.

### 95311 *Record Keeping.*

- (a) A California-licensed vehicle dealer of a HD tractor or 53-foot box-type trailer that is subject to the disclosure of regulation applicability requirements of subsection 95303(i) must maintain a record of the disclosure of regulation applicability for three years after the sale.

(b) A lessor of a HD tractor or a 53-foot or longer box-type trailer that has provided a lessee with a statement or written notice that informs the lessee about the lessee's obligation under terms of the lease to ensure compliance with the sections 95300-95312, title 17, California Code of Regulations, must maintain a record of this statement or written notice for three years after it is provided to the lessee.

953142 *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.