

Comment Letter #74



July 5, 2022

Wayne Nastri
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765

Subject: Comments on Draft 2022 Air Quality Management Plan

Dear Mr. Nastri:

The Pacific Merchant Shipping Association (PMSA), on behalf of its member ocean carriers and marine terminals operating in the South Coast Air Basin and throughout California, submits the following comments regarding the South Coast Air Quality Management District's (SCAQMD) Draft 2022 Air Quality Management Plan (AQMP).

PMSA has several concerns regarding the proposed 2022 AQMP. The continued inclusion of facility-based measures only persists to undermine cooperation between port stakeholders, port authorities, and California regulatory agencies. For multiple reasons outlined below, PMSA requests that the facility-based measures, specifically MOB-1, be removed from the AQMP.

Lack of Authority

As SCAQMD stated clearly in its Notice of Intent to Sue U.S. Environmental Protection Agency on April 15th, "the 1990 Amendments to the CAA, Congress preempted the states from establishing emission standards for locomotives, farm and construction equipment, and other nonroad engines, which includes marine vessels. CAA Section 209(e)." Within California, control of mobile sources is vested with the California Air Resources Board (CARB), not SCAQMD. CARB is fully exercising that authority through the multiple rules that will reduce emissions from all port-related mobile sources. SCAQMD cannot bootstrap its way to control mobile sources through indirect source authority. In addition, SCAQMD's indirect source authority is limited in that it cannot be applied to existing facilities.

Will Unnecessarily Conflict with CARB Measures

CARB has already promulgated stringent measures for ocean-going vessels covering both hoteling emissions (At Berth Regulation) and transiting/maneuvering emissions (Ocean-going Vessel Fuel Regulation) and harbor craft. The agency is also developing new measures for cargo-handling equipment and drayage trucks. Both adopted and proposed measures have aggressive timelines that will be challenging to meet. CARB has already completed a public rulemaking process for their adopted rules or will be completing such a process for their proposed rules to identify what emission reductions are possible and has described their own efforts as technology forcing. To the degree that MOB-1

covers these same sources, MOB-1 is duplicative. At worst, it will conflict by establishing a set of regulatory requirements that are not consistent with CARB requirements.

Facility-based Measures Will Delay Investment

Given the conflicts described above, MOB-1 will only serve to delay investment in clean technology. SCAQMD is adding uncertainty to an already technologically challenging transition to zero- and near-zero emissions operations and infrastructure improvements. The potential conflicts that are certain to arise can only delay investment as affected organizations must wait until all regulatory efforts are implemented to ensure that any compliance solution meets all requirements. The indirect nature of the facility-based measures may mean that third parties will select strategies that are consistent with CARB's efforts while not meeting the regulatory burden assigned by SCAQMD. This will hamper the regulated entity's ability to comply with a facility-based measure. That uncertainty regarding the actions of third parties will inevitably delay investment.

Facility-based Measures are Unnecessary and Will Not Demonstrate Attainment

With no emission reductions identified for any facility-based measure, the entire suite of measures is unnecessary to demonstrate attainment. The primary purpose of the AQMP is to demonstrate attainment and establish an enforceable commitment to meet federal ambient air quality standards. The facility-based measures do not serve that purpose and should be removed from the AQMP. In fact, **no emission reductions can be attributable to MOB-1 because achievable emission reductions will be claimed by CARB** as a result of their comprehensive rulemaking efforts on ocean-going vessels, harbor craft, locomotives, drayage trucks, and cargo-handling equipment.

Facility-based Measures Will Compromise Grant Funding Opportunities

MOB-1 will eliminate the opportunity to use billions of dollars that the State of California is making available for the transition to zero-emissions and near-zero emissions operating operations and infrastructure. AQMD staff has argued that their rules distinguish between deployment and usage of grant-funded equipment, claiming that while the purchase of a Carl Moyer-funded truck may not be credited against a facility-based measure, the use of that same truck would be. Unfortunately, whether it is drayage trucks, shore power, harbor craft, or other port-related equipment, almost all grant funds targeting port sources have usage requirements to ensure that equipment is used within the port complex. That is very different from the circumstances of the warehouse indirect source rule and will make the use of grant funding entirely inconsistent with the proposed regulatory scheme. No third-party will forgo grant funding to meet the compliance obligations of a regulated entity. Since indirect source rules make the regulated entity reliant on the actions of third parties, there may be no way to meet compliance unless grant funding is withheld – a truly nonsensical outcome which actually delays emissions reductions in the South Coast air basin.

Support National and International Standards

Instead of facility-based measures, PMSA asks SCAQMD to continue its support for the adoption of stricter national and international standards for federal mobile sources. Improving standards at these

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jurisdictional levels are necessary to achieve emission reductions at the ports and for allowing the long-term growth that will support our local communities and higher levels of investment in emissions reduction technologies. PMSA would be pleased to lend its support to SCAQMD in efforts that seek to control emissions from mobile sources by the appropriate regulatory body, including the International Maritime Organization, US EPA, and/or CARB.

Conclusion

The facility-based measures serve no evident purpose and should be removed from the AQMP. The proposed measures do not further attainment demonstration. Further, they will conflict with CARB's regulatory program, delay investment, and jeopardize needed State incentive funds. PMSA requests that the proposed measures, particularly MOB-1, be removed from the AQMP.

Sincerely,



Thomas Jelenic
Vice President