



South Coast Air Quality Management District

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September 15, 2023

Matthew Arms
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Port of Long Beach
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Chris Cannon
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Port of Los Angeles
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RE: Responses to the San Pedro Bay Ports Letter Dated June 16th on the Proposed Rule 2304 Marine Port Indirect Source Rule Concept

Dear Mr. Arms and Mr. Cannon,

Thank you and other staff at the Port of Long Beach and the Port of Los Angeles (“Ports”) for submitting the initial set of questions and requests for information in your letter addressed to the South Coast AQMD Governing Board, dated June 15, 2023, on the Proposed Rule (PR) 2304 – Indirect Source Rule for Commercial Marine Ports. We appreciate that the Ports staff listened in at the June 1, 2023 Working Group Meeting, and that you took the time to follow up with detailed questions. In the attachment, please find South Coast AQMD staff’s responses. The responses provided here are based on groups of related questions as details of the proposed rule are still in development and full responses are not possible until draft rule language is released.

We encourage staff from both ports to regularly meet with us and discuss these questions and others as they arise during rulemaking as we believe dialogue will be a productive way to resolve potential misunderstandings or disagreements. We look forward to continued feedback as well as data and information provided by Ports staff and other stakeholders as it is an important consideration in our development of the proposed rule.

For any comments and questions, please do not hesitate to contact either myself at wnastri@aqmd.gov, or Ian MacMillan at (909) 396-3244 or imacmillan@aqmd.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Natri", with a stylized flourish at the end.

Wayne Natri
Executive Officer
South Coast Air Quality Management District

Attachment: South Coast AQMD Staff Responses to Ports Staff’s Initial Set of Questions

Note: South Coast AQMD staff’s responses below are organized by groups of related questions.

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Attachment
Initial List of Questions on the Proposed Rule 2304 Concept

Establishing Emission Caps

- Please explain the technical methodology used for setting the Port-wide Mass Emissions Cap (PMEC) and Container Terminal-Specific Mass Emissions Cap (TMEC) levels.
- What are the technical assumptions SCAQMD will use for PMEC and TMEC, or if unknown at this time, how will SCAQMD develop them?
 - Are there going to be differences in the methodology or assumptions between container terminal operators (CTO) and port authorities (PA)?
 - With respect to emission sources, are they the same for PA and CTO?
 - How will the equipment used in each source category be determined?
 - How will the cargo throughput for CTO and for PA be estimated?
 - How will AQMD factor in growth or reduction in cargo, for either PA or CTO, when SCAQMD sets 2031, 2037 and interim year targets?
- What is the geographic scope of the mobile source activities included in the caps?
- Are the PMECs and TMECs targeting greater emission reductions from the regulatory efforts underway by the California Air Resources Board?
- To what degree does SCAQMD anticipate that the requirement to meet the PMEC or TMEC will limit a PA or CTO, respectively, from being able to access federal, state or other grant funding to support the transition to cleaner equipment and operations?
- The draft concept identifies potential compliance pathways, such as installing infrastructure, applying for grants, and developing/implementing incentive programs. What specific activities does AQMD anticipate that the Port ISR will require ports to undertake in addition to the activities already included in the CAAP?
- Will AQMD reconvene the Technical Working Group (TWG) to develop the PMECs and TMECs? How will AQMD select members of the TWG?
- What is the process or timeline for a PA to submit an alternative forecast? Can a CTO submit an alternative forecast?
- If an alternative forecast isn’t established at the beginning, can it be adjusted later when more information is known?
- Please explain how technology demonstrations can be used as a compliance pathway?
- Are the TMECs going to be the same for each terminal or will they vary based upon terminal capacity or current throughput? Is the PMEC equal to the aggregate of the TMECs?
- When PAs or CTOs face competing regulatory requirements – for example, when NOx reduction and greenhouse gas (GHG) reduction measures conflict – how can SCAQMD help eliminate or minimize such conflicts?

Group 1

Group 2

Response to Group 1 questions: South Coast AQMD staff is currently developing the proposed port-wide and individual terminal-wide mass emissions limits. Our analysis to inform the development of emission limits will consider information gathered from the Ports, container terminal operators, and other key stakeholders. Based on feedback received from stakeholders, we are evaluating many factors to determine the proposed emissions limits including air quality and public health needs, economic impacts, recently adopted and upcoming federal and state regulations, the Ports’ Clean Air Action Plans, the Ports’ CEQA mitigation and lease measures for various terminals, state and local executive orders and directives, published technology feasibility assessments, individual port- and terminal-

specific parameters, the Ports’ and terminal operators’ recent applications and granting of funding for projects that would improve air quality, and consistency with the Ports’ and container terminal operators’ current emissions inventory methodologies. We are currently analyzing these factors through a variety of scenarios to provide insight into how emission limits would work in the future. We look forward to providing further details about this methodology at future Working Group Meetings. We welcome the Ports’ and container terminal operators’ input on establishing these emissions limits at any time. We would also appreciate any assistance by the Ports in providing and discussing any detailed planning and implementation data and information to help inform this rulemaking. Regarding cargo growth, we currently plan to include assumptions about growth that are consistent with the Ports’ master plans when determining potential emission limits; however we are aware that this issue will require additional discussion with the Ports and other stakeholders.

Response to Group 2 questions: In developing the proposed port-wide and individual terminal-wide mass emissions limits, South Coast AQMD staff is also considering various ways to build in potential compliance flexibility to account for unforeseeable technological and economic uncertainties. Currently, the preliminary rule concepts would allow for each Port and container terminal operator to set their own plans toward emission reduction targets. Additional and reasonable compliance flexibility is also being actively considered, including ways to encourage and recognize Ports’ and container terminal operators’ investments towards emission reductions and zero-emission infrastructure that go beyond regulatory requirements, and include grant-funded investments and investments in technology demonstration projects. Staff would appreciate input from the Ports and container terminal operators to provide input on compliance flexibility and other preliminary rule concepts. This includes details regarding any flexibility the Ports believe is needed to accommodate potential conflicts between NOx and GHG reduction regulations.

Ongoing Compliance

- Please explain how the amounts of required annual incremental reductions in emissions prior to 2031 will be determined.
- How will rule compliance be monitored and enforced?
- What if a source outside of the direct control of the PA or CTO fails or refuses to comply with emission reductions? Who will be accountable for the emission reduction shortfall?
- Similarly, what if a source outside of the direct control of the PA or CTO fails or refuses to provide data required for reporting?
- How will AQMD determine whether a PA or CTO should be responsible for a source that falls under both the P MEC and T MEC? Would fees be imposed under both the P MEC and T MEC for failure to meet interim year targets?
- Under the Alternative Timeline approach, CTOs within the same port are allowed to meet their TMECs as an aggregate. Please explain how this would work.
- If a CTO has invested in cleaner equipment and operations, yet experiences unanticipated growth in cargo throughput that pushes them above the emissions cap, what happens to them? What happens if the increase occurs in 2031 or 2037?
- If progress on technology development doesn’t meet rule assumptions, and the CTOs or PAs are unable to meet the milestone deadlines, would SCAQMD consider an extension or adjustment process? How would this work?

Group 3

Group 4

Group 5

Group 6

Response to Group 3 questions: South Coast AQMD staff currently proposes that the annual emission reductions in interim of the proposed milestone mass emission limits be either established in the proposed rule or determined by the Port Authority or container terminal operator. Interim years before 2031 would need to show progress since time of rule adoption until the milestone year emission limit

in 2031. Similarly, interim years between milestone years 2031 and 2037 will also need to show continual progress. We also propose annual reporting and recordkeeping requirements on the Port Authority and container terminal operators to track compliance with rule requirements.

Response to Group 4 questions: The proposed port-wide and individual terminal-wide mass emissions limits will address emission sources associated with container terminal operations that arrive, depart, and transgress through the Port domain as well as emission sources that assist with cargo movement within the Port domain. South Coast AQMD staff believe the multiple respective tools that the Port Authority and container terminal operators each have to direct and/or facilitate clean air actions with Port emission sources can be maximally utilized to achieve emission reductions. In addition to developing the proposed emissions limits, South Coast AQMD staff are actively working on building potential compliance flexibility into the proposed rule as discussed in the response to Group 2 questions. We welcome opportunities for real-time discussions with the Ports to better understand the Ports' perspective. We continue to conduct real-time discussions with container terminal operators during our visits to all container terminals and/or through their trade association.

Response to Group 5 question: Under the current concept, the potential option for multiple same-port container terminal operators to meet their respective individual terminal-wide emissions limits as an aggregate would require prior approval by the respective Port Authority before submitting the plan to South Coast AQMD. In this approach, terminals could use the alternative plan to meet emission limits rather than the default timeline in the rule. Details will be discussed at future Working Group Meetings as well as in the initial preliminary draft rule language.

Response to Group 6 questions: Please see the response to Group 2 questions.

Mitigation Fees

- Please explain the methodology behind the establishment of PA and CTO mitigation fees.
- How can the PAs and CTOs provide input on staff analyses on mitigation fee design?
- How will the escrow work? Who will hold and manage it? How will it be determined and what kinds of projects would the escrow account fund?
- What limitations will be placed on spending of the mitigation fee monies?
- Will the mitigation fees be reserved for reinvestment in cleaner equipment or operations at the CTOs or PAs where they were generated?
- Who will manage the investment of mitigation fees?

Group 7

Response to Group 7 questions: As part of the compliance flexibility design, the preliminary rule concepts include setting aside funds for clean air and zero-emission investment at the Ports and container terminals, under certain conditions. Staff is continuing to evaluate these approaches, both in considering how funds would be collected and managed, for which components of the rule would be applicable to this type of compliance option, and how funds would be spent.

Infrastructure & Energy

- What specific information will be required from the PAs for the required infrastructure plan?
- Are there extensions to compliance deadlines for delays outside of the PA's and CTO's control in installing infrastructure?
- Since the regulation requires an infrastructure plan, how will the rule incorporate utilities/energy providers' information on energy capacity and timelines?
- Will SCAQMD require an energy management system as part of the infrastructure plan? If so, to what extent?

Group 8

Response to Group 8 questions: South Coast AQMD staff is further developing the proposed infrastructure planning and installation requirements for Port Authorities and container terminal operators, including information and data gathering from the Ports, container terminal operators, and utility providers. Further details on the proposed infrastructure requirements will be presented at future Working Group Meetings as well as detailed in the initial preliminary draft rule language. Staff welcomes Ports' and container terminal operators' input and information-sharing at any time.

Other

- Will an economic impact analysis of the ISR be conducted? If so, how can PAs and CTOs provide input on the analytical framework and methodology?

Group 9

Response to Group 9 question: As part of the PR 2304 rulemaking, staff is preparing a socioeconomic impact assessment pursuant to the California Health and Safety Code requirements. Staff welcomes Ports' and container terminal operators' as well as other key stakeholders' input, including any technical and methodological recommendations that reflect the best practice in such assessments. We plan to discuss the methodology we plan to use in the socioeconomic impact assessment at a future Working Group Meeting.