



June 18, 2024

Ian MacMillan
Assistant Deputy Executive Officer
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765

Submitted to: railyardisr@aqmd.gov

Subject: Comments on Proposed Rule 2306 – Railyard Indirect Source Rule

Dear Mr. MacMillan:

As you know, the Pacific Merchant Shipping Association (PMSA) has been actively engaged with South Coast Air Quality Management District (SCAQMD) staff and Board Members on development of the proposed Port Indirect Source Rule (ISR). The development of Proposed Rule 2306 (PR2306) has now raised additional concerns that are addressed below. As always, PMSA believes that in order to be successful, any regulatory scheme must effectively target the source of emissions and do so in a way that does not interfere with operations and is not duplicative of existing regulatory programs. PMSA is deeply concerned that PR2306 is duplicative, incompatible with the proposed port indirect source rule, and will not reduce emissions while substantially burdening facilities with additional reporting requirements.

No Demonstrated Need

SCAQMD staff has not demonstrated the need for the PR2306. Staff presentations make clear that there are no likely emission reductions beyond the recently adopted California Air Resources Board In-Use Locomotive Regulation. The only justification for the rule provided by staff is that there is some unquantified possibility that emissions reductions under the State rule could disproportionately happen in parts of the State outside of the South Coast Air Basin. With the concentration of rail activity in the South Coast, it strains credulity to imagine a scenario where emissions reductions could occur disproportionately outside South Coast. As the sole basis demonstrating the need for PR2306, SCAQMD staff should quantify what likely and reasonable scenarios exist that would result in disproportionate emissions reductions outside the South Coast. Without such an analysis, the benefit of PR2306 is speculative at best.

PR2306 Exemptions

Based on staff presentations, it appears that the intent of PR2306 is to contain a “full exemption” for facilities in the port complex. The language contained in the draft rule language does not accomplish this. The draft language would exempt port facilities that are not intermodal rail facilities. By design, marine terminals are intermodal facilities; their purpose is to transfer cargo between ships and trucks and trains. As written, the proposed exemption language does not accomplish SCAQMD staff’s stated

goals; the language is vague and unclear. SCAQMD should consider explicit language regarding which facilities are regulated and which facilities are exempt from the proposed rule.

Equally concerning is the concept of a “full exemption” presented during the public workshop on June 4, 2024. In fact, there is no “full exemption” due to the design of PR2306. While it appears that between PR2306 and the proposed port ISR there is no overlap in identified regulated entities, SCAQMD staff made clear during the workshop that nothing in PR2306 excludes the same activity being regulated simultaneously under both proposed rules. This is deeply problematic. PR2306 makes the operator of locomotives directly responsible for emissions reductions from their operations on a facility-by-facility basis. Since multiple regulated facilities under PR2306 share responsibility for the same activity, it is in the interest of facilities regulated under PR2306 to maximize their actions on activity that involves multiple facilities, thereby minimizing their cost and maximizing the benefit of any action taken. This rule design would have two detrimental impacts on marine terminal operators under a proposed port ISR. First, facilities regulated under PR2306 would be incentivized to maximize emissions reductions outside the port complex since maximum benefit would be achieved by focusing emissions reductions on activity between multiple regulated facilities, all of which would be outside of the port complex. Second, marine terminal operators would still be responsible for emissions reductions from locomotive activity under the concept proposed by SCAQMD staff, but no opportunity would exist for emission reductions beyond what PR2306 regulated facilities would already be implementing.

PR2306 needs to include an actual full exemption for both the regulated facility and the regulated activity. It should be clear that any activity subject to PR2306 will not also be subject to the proposed port ISR. Failing to do so would create a situation where marine terminal operators would be subject to limits on activity that the facility would have no ability to influence.

Additional CEQA Review Required

SCAQMD proposes that no additional review under the California Environmental Quality Act (CEQA) is required beyond the reviews that were conducted in Program environmental Impact Report (EIR) for the 2016 and 2022 Air Quality Management Plans (AQMPs). One of the primary purposes of preparing a PEIR is that impacts of specific actions of a larger program are speculative at the time of the program adoption. A project-specific EIR would allow for the analysis of environmental impacts not previously possible. This is demonstrated by the text of the 2016 Program EIR. In one of many examples, the Program EIR states:

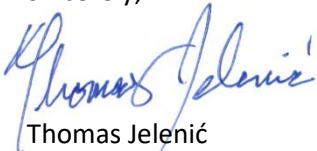
The 2016 AQMP would establish in-use strategies that may require or promote the use of alternative fuels including control measures MOB-01, MOB-02, MOB-03, MOB-04, MOB-05, OB-07, MOB-09, MOB-10, MOB-13, EGM-01, ORLD-01, ORLD-3, ORHD-02, ORHD-04, ORHD-05, ORHD-06, ORHD-07, ORHD-08, ORH-09, ORFIS-01, ORFIS-05, OFFS-01, OFFS-04, OFFS-05, OFFS-07, and OFFS-08.

Here, the PR2306 (MOB-02) is lumped into a series of AQMP control measures that “*may require or promote the use of alternative fuels*”. That speculation is repeated throughout the Program EIR for the

various resource areas. While that speculative approach may be acceptable in a Program EIR, additional analysis is required for the adoption of PR2306. Presumably, SCAQMD staff believes regulated facilities will take action on a facility-level basis to meet the requirements of PR2306 – as that is the intended goal. By not quantifying the need for the regulation (as discussed previously) and therefore, what actions would be necessary to comply with PR2306, SCAQMD staff is avoiding analysis of actions that staff must believe are necessary to avoid disproportionate emissions reductions taking place outside the South Coast. SCAQMD staff must do a proper CEQA analysis on PR2306.

PMSA appreciates the opportunity to submit these comments.

Sincerely,

A handwritten signature in blue ink that reads "Thomas Jelenić". The signature is written in a cursive style with a large initial "T".

Thomas Jelenić
Vice President