

SAN PEDRO BAY PORTS CLEAN AIR ACTION PLAN

March 20, 2025

Wayne Natri
Executive Officer
South Coast Air Quality Management District
21865 Copley Dr.
Diamond Bar, CA 91765

SUBJECT: Questions Regarding the Initial Preliminary Draft Rule Language for PR2304

Dear Mr. Natri:

On February 28, 2025, the staff from the ports of Long Beach and Los Angeles (Ports) attended the South Coast Air Quality Management District (AQMD or District) Commercial Marine Ports Working Group Meeting. We appreciated the opportunity to learn more about the Proposed Rule 2304 (PR 2304) concept from AQMD staff released on February 21, 2025. The draft PR 2304 concept language requires submission of an infrastructure plan by each Port, to be approved or disapproved by the AQMD Executive Officer, followed by enforceable implementation (i.e. required construction of infrastructure) of an approved plan.

Please find attached an initial set of questions and requests for information that will help us to evaluate and review the Initial Preliminary Draft Rule Language for PR 2304. Questions are related to legal authority, interaction with other agencies and laws, definitions, approval criteria, overall rule approach and infrastructure and energy details, practical implementation, environmental review, funding and costs, workforce, and reporting and enforcement. The Ports request clarification from AQMD staff in written response to this letter, and if your response is in the PR 2304 amended draft rule language, please indicate that by reference to the amended language. If you need any clarification related to these questions, please reach out at any time.

Sincerely,



Renee Moilanen
Director of Environmental Planning
Port of Long Beach



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The San Pedro Bay Ports Clean Air Action Plan was developed with the participation and cooperation of the staff of the US Environmental Protection Agency, California Air Resources Board and the South Coast Air Quality Management District.

March 20, 2025

Page -2-

cc: Dr. Sarah Rees, Deputy Executive Officer
Ian MacMillan, Assistant Deputy Executive Officer, SCAQMD
Elaine Shen, Planning and Rules Manager, SCAQMD
Charlene Nguyen, Program Supervisor, SCAQMD
Governing Board, SCAQMD
POLB Board of Harbor Commissioners
POLA Board of Harbor Commissioners
Mario Cordero, Chief Executive Officer Port of Long Beach
Gene Seroka, Executive Director Port of Los Angeles

Attachment
Questions on the Initial Preliminary Draft Rule Language

Legal Authority

1. What does District assert to be the source of the District's Authority to promulgate a proposed regulation (or, ultimately, a final rule) of the nature of PR 2304? Citations to specific statutory authority would be helpful and appreciated.
2. Does the District assert that PR 2304 is an Indirect Source Rule (ISR)? There is no reference to indirect sources in the draft document. The specific term "Indirect Source Rule" is not used in the draft PR 2304 language or staff presentation slides. We understand ISR authority to apply to a "...facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution." 42 U.S.C. § 7410(a)(5). Ports such as POLA and POLB do not obviously fit within this definition. Please explain the District's position on why the Ports meet definitional requirements for ISRs under federal law.
3. Please explain what legal authority the Ports would use to compel information or action from marine terminal operators and utilities providers in creating or implementing the proposed infrastructure plans?
4. In addition to its status under federal law, we would appreciate the District's views as to the status of PR 2304 under California Law. Does the District rely on any particular state statutory authority for promulgation of PR 2304? If so, please identify those sections. Again, as noted above, circulated draft rule language contains no references to "indirect sources" or "indirect source rule."
5. PR 2304(a) states that the Rule is necessary "to facilitate emission reductions from these mobile sources to meet state and federal air quality standards." According to District staff comments at the February 28 workshop, there is no requirement to use the installed charging and fueling infrastructure. Please explain how the Rule facilitates emissions reductions from mobile sources to meet state and federal air quality standards. Please explain under what authority the District, through PR 2304 or otherwise, can require the Ports to "ensure alignment of infrastructure build out with technology deployment."
6. Please explain how PR 2304 would be consistent with the Ports' Tidelands Trust mandate to promote maritime commerce and navigation. How could construction of infrastructure that does not need to be used constitute a productive public trust use?
7. Has the District evaluated whether PR 2304, if enacted, can be reconciled with the Ports' traditional Tidelands Trust, Land Use, Zoning, constitutional, police powers, and other authorities that authorize the Ports' governing bodies to manage and oversee properties and activities within the Harbor Districts? If so, please explain the reasoning behind this conclusion.

ISR and Other Agencies and Laws

8. California Air Resources Board (CARB) has previously sought waivers from the Environmental Protection Agency (EPA) to regulate certain mobile sources in California,

obtaining some waivers and withdrawing others affecting zero emissions. The Congress and courts are currently considering overturning EPA's approval of CARB's Advanced Clean Trucks Rule and Omnibus NOx Rule. If PR 2304 is intended to achieve emissions controls, mitigation or reductions from mobile sources, explain why the EPA will not need to provide or continue ensuring waivers for those mobile sources before PR 2304 can become effective.

9. Please clarify whether District/CARB intend to seek State Implementation Plan (SIP) credit for PR 2304, and if so, explain what SIP requirements/timelines are intended to be covered and how the criteria for obtaining SIP credit will be met.
10. If PR 2304 is not adopted into the SIP, how will PR 2304 be enforced?
11. Will PR 2304 become effective as of the date of EPA actions (1) approving its adoption into the California SIP; and (2) approving Clean Air Act (CAA) waivers/authority for California regulations for Commercial Harbor Craft, Locomotives and Drayage Truck requirements of Advanced Clean Fleets (similar to how Rule 2306 Railyards ISR's legal effectiveness was contingent upon completed actions by US EPA; *i.e.*, final action approving the Rule in the California State Implementation Plan; and CAA waivers/authorization for locomotives and California Advanced Clean Fleets Regulation either as a whole or in part for its Drayage Truck Requirements)?
12. If EPA does not grant CARB-required CAA waivers/authorization for CHE, Locomotives, Harbor Craft zero emission and advanced technologies (ZEAT) standards and Advanced Clean Fleet for Drayage Trucks, and if the Congress or courts overturn EPA's approval of CARB's Advanced Clean Trucks Rule and Omnibus NOx Rule, how will operators be required to use zero emissions infrastructure that PR 2304 will require the Ports to install at great cost, with no enforceable in-use regulations for zero emission (ZE) CHE, Locomotives, Harbor Craft and Drayage Trucks?
13. California has adopted legislation regarding voluntary Port Energy Management Plans (PRC 25990). That legislation did not provide District with authority over such plans, but instead required that the Public Utilities Commission assist the Ports in developing such plans. Has the District evaluated how PR 2304 can be reconciled with the apparently contrary and inconsistent provisions of PRC 25990?
14. California has previously adopted legislation providing for and encouraging the transformation to renewable, greenhouse gas (GHG) emissions-free, and green sources of electricity and energy (including but not limited to providing monetary incentives). Please address whether PR 2304 can be reconciled with that legislation, particularly given the District's mandate to address compliance with and attainment of national ambient air quality standards.
15. Please explain how the Rule is consistent with the Air Quality Management Plan (AQMP), particularly in light of measures focused on voluntary/incentive programs and the ZE Infrastructure Work Plan. (MOB-09, MOB-12, MOB-15.)
16. Has AQMD consulted with the California Air Resources Board (CARB) regarding this draft rule language? Does CARB have any comments related to its existing or pending

regulations being pursued under its mobile source authority that will interact with this proposed rule?

17. Has AQMD shared its draft rule language with EPA staff? Does EPA have any comments related to its existing or pending regulations that will interact with this proposed rule?
18. Has the AQMD shared its draft rule language with the California Public Utilities Commission? And if so, what comments or considerations did it share related to this proposed rule?

Definitions

19. Why are the definitions for “harbor craft,” “cargo handling equipment,” and “locomotive” different from the definitions for these terms in CARB’s Commercial Harbor Craft Rule, the 2011 Amendment Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards, and the In-Use Locomotive Regulation?
20. The definition for “railcar” swaps the word “container” for “equipment” and replaces “freight or passengers” with “cargo” when compared to the CARB In-Use Locomotive Regulation definition. Can AQMD explain the rationale for switching “container” for “equipment”?
21. Is the definition for “design” intended to limit Plan submissions to just those enumerated elements of project design?
22. The definition for “marine terminal operator” includes third-party subcontractors to the tenant or assignee. How should a port-submitted plan address or incorporate future potential subcontractor(s) under contract to a marine terminal operator?
23. The definition for “mobile source” extends beyond the mobile sources tracked through the Ports annual emissions inventory. Can AQMD clarify the intent of this expansion?
24. Given that the Ports do not manage, own, or operate any facility that is used primarily for cargo handling or storage, can AQMD clarify how the definition of “port facility” is proposed to apply to the Ports?
25. The phrase “zero-emissions” Is used several times in the proposed rule but is not defined. Can AQMD staff please define “zero-emissions” for the purposes of the rule?
26. Please define the Port’s “roles and responsibilities” as referenced in (d)(2). Is AQMD referring to the Port’s legal obligations and jurisdiction?
27. The phrase “infeasibility” is used in (d)(3)(A) and (h)(4)(B) of the proposed rule but is not defined. Can AQMD staff please provide a proposed definition for this term?
28. As related to Plan modifications and time extension requests, please clarify what is meant by “infeasible to implement”, “outside of Ports’ control”, “extenuating circumstances”, and “anticipated funding” and/or “not available” set forth in the proposed rule language and in the February 28, 2025 Presentation.

Approval Criteria

29. Can AQMD staff please provide more specifics on what criteria will the Executive Officer/AQMD will apply to making the following determinations as required by the proposed rule:
- If a justification submitted by either Port for an alternative Action Level of an alternative Target Year is adequate for approval?
 - The acceptability of the proposed Planning Targets?
 - If a plan has the ability to meet the Planning Targets? Upon what in-house or external resources will AQMD rely on to make such determinations, and what qualifications will the individuals making those determinations hold?
 - to approve or disapprove a request for a time extension request for a Milestone or Planning Target?
 - the completeness and adequacy of submitted data?
30. Please provide more clarity and specific examples for when the Executive Officer would issue a “partial approval” of a plan? Would the approved elements of the plan be required to proceed with implementation while the remaining elements are revised and resubmitted?
31. Please provide clarity and specific examples of the “procurement” phase of an infrastructure project.
32. Please provide clarity and specific examples of the criteria for review for a given project’s “development” phase.
33. Please provide clarity on what criteria AQMD will use to approve plans specifically related to alternative maritime fuels.

Rule Approach and Infrastructure and Energy Details

34. AQMD’s goal and mandate is to clean the air of the South Coast Air Basin and protect its residents from health impacts related to air pollution. How does this draft rule accomplish that?
35. The February 28th presentation explained that the purpose of PR 2304 is to “plan for and install charging and fueling infrastructure to support anticipated clean energy transition of Port Sources.” Please explain how this planning and construction rule will support the transition, particularly when there is no requirement to use the charging and fueling infrastructure.
36. Assistant Deputy Executive Officer MacMillan stated at the February 28, 2025 Working Group Meeting that the infrastructure only needs to be built and not used. Please explain how a rule requiring installation of excess, unused ZE infrastructure is justifiable and rationally related to the government interest of reducing emissions of criteria air pollutants.
37. The February 28 presentation states that required Planning Targets are not emission reduction requirements or cargo caps. Please identify how proposed Planning Targets will be evaluated and approved by the Executive Officer and clarify whether PR 2304

intends to impose port-wide emissions controls, mitigation or reductions and how they will be achieved under PR 2304 if promulgated as a Final Rule.

38. How does the District plan to measure or calculate the efficacy or impact of any emissions controls, mitigation or reductions (including those (if any) relating to ozone, NO_x, PM, diesel pollutants, greenhouse gases (GHGs), and hazardous air pollutants) intended to be subject to the Rule?
39. Please explain how the Ports are to determine “Action Levels” and “Target Years” for mobile sources operating at the Ports that are not subject to default targets and that are not already regulated by the EPA, CARB, or District.
40. How are the default “Action Levels” in PR 2304 consistent with existing federal and state regulations? Please explain how the Action Levels are “feasible,” i.e., capable of being accomplished in a successful manner in a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. (See HSC § 40717.5, PRC § 21061.1.)
41. The default Planning Target for OGVs is to be consistent with the latest IMO emission reduction strategies. Clarify what emission reduction strategies are being referenced. IMO recently adopted a Greenhouse Gas Strategy, targeting net-zero emissions from shipping by or around 2050. Is AQMD intending for this rule to target reductions in greenhouse gas emissions? Clarify how requiring the Ports to specify Planning Target(s) for OGVs that are consistent with the latest IMO emission reduction strategies is rationally related to the government interest of meeting the national ambient air quality standards.
42. During the working group meeting, AQMD staff stated the proposed rule will be part of an incremental approach. In response to a question regarding District authority to compel the use of ZE equipment that would use the ZE infrastructure at the February 7, 2025 Governing Board Meeting, Executive Officer Nastri responded that requiring ZE infrastructure use would be addressed in a future phase of the Rule. The proposed rule should include clear provisions of any future incremental process and provide a description of the anticipated timeline of future rule changes so that interested parties can understand the full intent scope of this rulemaking. Can AQMD staff clarify what is meant by “incremental approach”? What process will AQMD follow for future increments and what specific next steps and actions are under consideration by AQMD staff?
43. The proposed rule requires that the Ports define in their plans which infrastructure they do and do not have ownership of and control over. How will AQMD address concerns that that infrastructure ownership and control may be subject to differing legal interpretation and that infrastructure may be owned or controlled by parties not required to take any actions under the rule?
44. Given that the Ports generally do not own, and do not and will not operate, the infrastructure or the equipment utilizing the infrastructure specified in the Plans, does a

third party's refusal to cooperate render a Planning Target "...infeasible to operate due to factors beyond the control of the Port"?

45. The draft rule identifies the geographic scope of the infrastructure plans as the Harbor Districts. The Port of Los Angeles does not use the term "Harbor District." Further, the Port of Long Beach's Harbor District includes private property that is not owned by the City of Long Beach. Is it AQMD's intent to have the ports plan for and install infrastructure in the entire area surrounding the ports, or will AQMD be limiting the scope of the plans to operations on Port-owned property?
46. Achievement of the default Planning Targets for some of the source categories (e.g. trucks, OGVs) will require installation of infrastructure outside of the port area. What criteria will be used by the Executive Officer when evaluating whether or not to approve the plan to determine how much infrastructure construction is enough in the port area?
47. The rule language states that the Ports may request a change to one or more of their Planning Targets so long as the Ports have not already applied for a time extension for this occurrence. Is there a process for a secondary extension if one proves necessary for reasons outside the control of the Port(s)?
48. Clarify the expected scope of the requirement that the Ports identify and evaluate "any initiatives, strategies, plans, and projects that have been put forth by public agencies and the private sector...as pertaining to the current or future use of Energy Types other than Conventional Fuels by Port Sources and other Mobile Sources operating at, and/or traveling to or from, Port Facilities." What would AQMD consider a complete submission for this requirement?
49. Given the uncertainties around technology feasibility, please provide the more clarity on the rule's assessment of on-port energy demand for each energy type and the rationale for aggregating such demand.
50. If AQMD is assuming that electrical utilities and energy suppliers will be responsive to making investments in upstream utility upgrades and energy production based on aggregated energy demand forecasts, please provide evidence to support that assumption.

Practical Implementation

51. On slide 7 of the presentation shared at the working group meeting, AQMD staff states "port is responsible for carrying out processes and meeting milestones within their control." Implementation of and compliance with PR 2304 would require cooperation from numerous stakeholders and third parties. Has the District considered the Ports' limited ability to compel third party actions towards developing the proposed ZE infrastructure and ensuring sufficient energy supply?
52. Does AQMD expect to require the Ports to house all on-road truck charging and fueling facilities on Port property? If not, what percentage of the requisite infrastructure should be anticipated on port property?

53. Understanding the Ports do not and will not build, own, or operate this infrastructure, will the ports be held accountable if others throughout the region fail to install the required infrastructure to meet the Planning Targets?
54. Would AQMD approve a Planning Target for Commercial Harbor Craft that is consistent with CARB's regulation and the waiver that has been granted by the EPA?
55. What specific analysis did AQMD conduct or use as a reference to establish the August 2027 deadline for submitting Port-Wide Charging and Fueling Infrastructure Plans? Was the level of available information and maturity of the technology for each of the difference sources taken into consideration?
56. What allowances can be made for Port submissions that are deemed inadequate by AQMD due to insufficient data from third party entities that are not cooperative to this process?
57. How will AQMD allow for adjustments to approved plans if the Ports' predictions for fuel choice and fleet sizes turn out to be wrong?
58. If the infrastructure plan submitted to AQMD in August 2027 assumes a specific technology will develop but the market does not respond and the infrastructure goes out of service, is it AQMD's intent for the ports to be responsible to install different infrastructure?
59. How does AQMD intend to use the various data categories required to be provided by this rule?
60. How does repetition of each Port's respective utility provider's grid plans serve the public interest or AQMD's goals?
61. Please explain the reason for requiring plans to include specific infrastructure information such as "dispensing connector [i.e., nozzle], fuel compressors, fuel transportation pipelines...conduits [etc.]"? How will this information be used by the Executive Officer in determining if a plan is adequate?

Environmental Review

62. Proposed PR 2304 will require planning and construction. What CEQA/NEPA reviews will AQMD be required to conduct in support of PR 2304? Will the District's environmental analysis consider the significant environmental impacts of the substantial required infrastructure construction and the associated potential significant impacts on energy supply and demand?
63. Provide the socioeconomic impact assessment required under Health and Safety Code section 40728.5. In particular, provide the range of probable costs and how the District will minimize those adverse socioeconomic impacts.
64. If the Port is the lead agency for CEQA on infrastructure projects covered by the required infrastructure plan, what authority allows AQMD to determine "whether the appropriate environmental analysis as required in (e)(2)(D) has been conducted pursuant to CEQA?"
65. If a federal agency is the lead agency for NEPA on infrastructure projects covered by the required infrastructure plan, what authority allows AQMD to determine "whether the

appropriate environmental analysis as required in (e)(2)(D) has been conducted pursuant to NEPA?”

Funding and Costs

66. Will AQMD prepare a cost estimate for complying with this rule?
67. How will AQMD address concerns that this rule will impact the Port and its operators' abilities to secure outside sources of funding to support emission reductions?
68. The draft rule requires the Ports to estimate the costs of the plan implementation and to identify which entity is to be the Primary Payer of each cost. This may vary from project to project, depending on direct negotiations with external parties. Will AQMD allow for variance in Primary Payers, and how would a change in the expected Primary Payer for a specific project impact the approval status of the submitted plan?
69. The draft rule language requires the Port to identify liquidation deadlines for grants. How will this information be used by AQMD? Is this information relevant to approval of the plan?
70. The Ports are concerned that the requirements of PR 2304 as drafted impose an unfunded mandate requiring the Ports to allocate resources for Plan preparation, implementation, substantial capital development, assessment, reporting, notification, and recordkeeping. How does the District contend that these concerns have been addressed?
71. Has the District considered whether PR 2304 will divert funding from current Port infrastructure initiatives or prevent/restrict the Ports from being eligible for future grant and loan programs? If so, please address what conclusions were reached on this subject (and the reasoning behind those conclusions).
72. Provide findings related to cost effectiveness of this measure per Health and Safety Code Sections 40703 and 40922.

Workforce

73. How does AQMD intend to use and evaluate the information submitted in this section of the plan? What are the criteria AQMD will use to determine whether the workforce assessment is adequate? How will this information be considered by the Executive Officer in his/her review and approval of the plan?
74. How does this analysis support AQMD's goals and overall mandate for emission reductions?
75. Proposed PR 2304 requires the Ports to assess adequacy of the workforce to build out the additional capacity of energy supply. Energy production, distribution, and utility upgrades will require significant development by third parties outside of the port area. Is it AQMD intention for the Ports to identify and analyze all of the upstream energy development, workforce needs, and forecasted worker availability for energy suppliers and utilities, including the number of full time jobs, by type, per year, related to installation and use of the infrastructure?

76. Ongoing infrastructure operations and maintenance are excluded from the draft rule in Section (e)(2)(B)(i)(A), and the draft rule does not require infrastructure operation. What is the rationale for requiring a workforce assessment of the infrastructure “in operation” if the rule itself does not require operation?

Reporting and Enforcement

77. The draft rule language requires the Ports to provide status updates in the Interim Reports and Plan Implementation Progress Reports on all “Operational Infrastructure.” Will the Executive Officer be determining the adequacy of these Progress Reports? If so, what criteria will be applied in that determination? What happens if a Progress Report is not approved?
78. Please address the specific enforcement procedures for PR 2304 compliance, particularly in light of the fact that the Ports generally will not own or operate the charging and fueling infrastructure. If District intends to develop an enforcement action plan related to PR 2304, please address the anticipated timeline for developing such a plan. Under what statutory authorities would District enforce the rule?
79. Please clarify Dispute Resolution and appeal procedures for disputes between District and regulated parties (Ports) as it relates to proposed PR 2304.
80. How would the District administer any revenues paid from violations to ensure these revenues support the goals of the rule? Who would control the revenues, and how would these revenues support the terminals/ports?