

Proposed Rule 2304 – Commercial Marine Ports

Working Group Meeting

April 16, 2025

GB Conference Room



Join Zoom Webinar Meeting

- from PC or Laptop

<https://scaqmd.zoom.us/j/91542075443>

Zoom Webinar ID: 915 4207 5443

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Agenda



Summary of February Working Group Meeting



Rule Implementation



South Coast AQMD Rule Enforcement



Potential Implications on Grants and Incentives



Additional Rulemaking Updates



Next Steps

Summary

February 28th Working Group Meeting

Discussed key
concepts for rule

Presented PR 2304
Initial Preliminary
Draft Rule Language

Received feedback
on draft rule
language, including
input on
**placeholder
language**

**Staff continues to seek
stakeholder input**

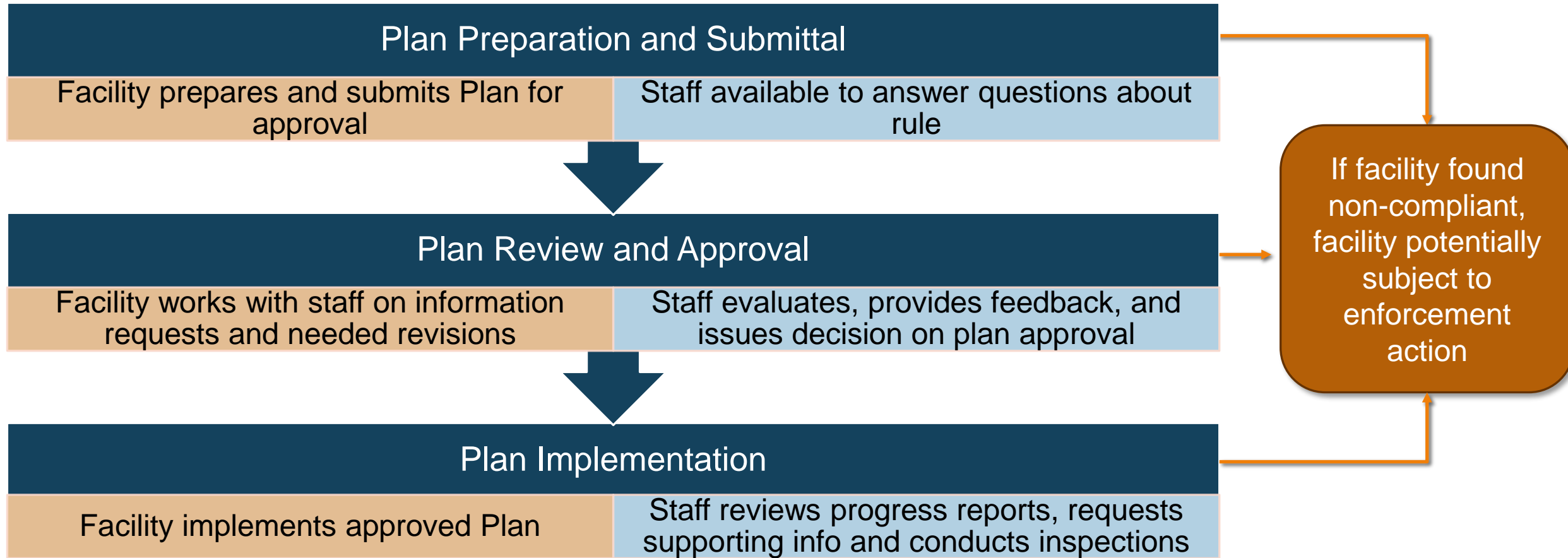
Key PR 2304 Comments

| Key Comment | Community Stakeholders <i>(Feb. 5, Mar. 19 letters)</i> | Port Stakeholders <i>(Mar. 20 letter)</i> | Industry Stakeholders <i>(Feb. 7 letter)</i> |
|-----------------------------------|--|--|--|
| Rule Approach and Proposal | <ul style="list-style-type: none"> • Include enforceable emission reduction targets and assessment of emission reductions | <ul style="list-style-type: none"> • Prefer agreement, not a rule • Question regulatory authority, rule enforcement, and impacts to external funding • Inquire about CEQA and socioeconomic analysis approaches | <ul style="list-style-type: none"> • Echo Ports' comments • Concerned that regulatory approach will someday lead to cargo caps |
| Plan Approval | <ul style="list-style-type: none"> • Ensure infrastructure plan tied to greatest emission reductions | <ul style="list-style-type: none"> • Request clarifications on Plan approval criteria and rule implementation | |

Staff written responses to comments will be in Draft Staff Report 30 days prior to Board consideration of PR 2304

Rule Implementation

Overview of South Coast AQMD Rule Implementation



PR 2304 Rule Implementation

Plan Preparation and Submittal

Port prepares and submits Plan for approval

Staff available to answer questions about rule

If Port concerned about its ability to submit complete Plan by due dates

Notify

Staff works with Port to address issues

If issues not resolved by due date, Port potentially subject to enforcement action

Plan Review and Approval

Port works with staff on information requests and needed revisions

Staff evaluates, provides feedback, and issues decision on plan approval

* See later slide

If Port does not provide info or doesn't revise Plan to address deficiencies

Notify

Staff works with Port to address issues

If issues not resolved, Port potentially subject to enforcement action

PR 2304 Rule Implementation (continued)

Plan Implementation*

- Port implements approved Plan
- Port takes actions to meet Milestones and Planning Targets
 - Report on Milestone completion

Staff reviews progress reports and requests and conducts inspections

If Port unable to meet Milestone due to reason(s) within its control

If Port unable to meet Milestone and does not provide info showing due to reason(s) outside its control

Milestone found to be incomplete from inspection

Staff investigates Milestone

If Milestone determined incomplete due to reason(s) within Port's control, Port potentially subject to enforcement action

*For Milestones that are not completed for reasons within Port control

PR 2304 Rule Implementation (continued)

Plan Implementation*

Port implements approved Plan

- Port takes actions to meet Milestones and Planning Targets
- Report on Milestone completion

Staff reviews progress reports and requests and conducts inspections

If Port unable to meet Milestone due to delay beyond its control

Request Time Extension

Staff reviews request and issues decision

If Port finds meeting Milestone or Planning Target infeasible due to factors outside its control

Request Plan Modification

Staff reviews proposed modification and issues decision

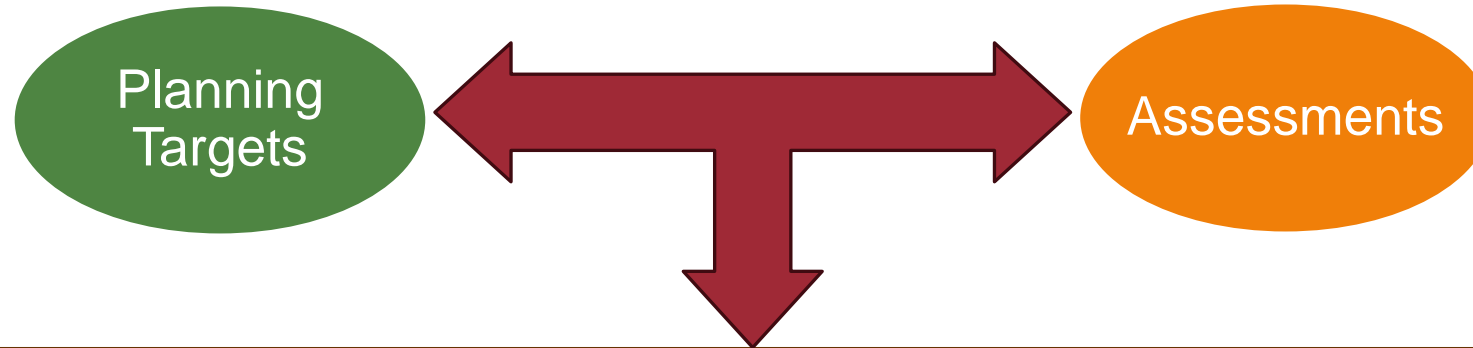
If Port identifies alternative Milestones

If approved, Port implements with extension or modified Plan

If disapproved, Port must implement previously approved Plan

* See later slide

Plan Preparation



Processes and Timelines Set A Blueprint for Implementation

Example: Installation of charging infrastructure for cargo handling equipment at terminal(s)

Port Role

- Land use agency
- Permitting agency
- Landlord
- Lead agency for CEQA (if applicable)
- Project coordinator (if applicable)
- Prepares Report on Plan Milestone completion progress for PR 2304

Tenant(s) Role

- Project proponent
- Owner and operator of charging equipment

Utility Role

- Owner and operator of electrical grid infrastructure

Setting and Completing Milestone Example

Example of processes for installing charging infrastructure at terminal(s)*

| Milestone | Port has primary role | Port has supporting role | Example* of Port action(s) as the supporting role |
|---|-----------------------|--------------------------|--|
| Port establishes mechanism (e.g. agreement, program, etc.) with tenant(s) for charging infrastructure development | ✓ | | |
| Tenant(s) submit project proposals to Port and utility for review | | ✓ | <ul style="list-style-type: none"> • Jointly with tenant(s), applies for eligible grant funding • Supplies letters of support for grant applications, if not applicant |
| Port reviews tenant proposal(s) and provides permitting decision including environmental clearance | ✓ | | |
| Utility develops workplan and installs electrical upgrades | | ✓ | <ul style="list-style-type: none"> • Reviews and provides necessary permits for utility work |
| Tenant(s) implement proposal component of installing charging infrastructure | | ✓ | <ul style="list-style-type: none"> • Disburses funds (if grant awarded to Port or as incentives from own program) to tenant(s) in timely manner |

** Based on staff's observation and may not be applicable to all infrastructure projects*

Note: Tenants and utilities are not subject to PR 2304

Milestone Completion Infeasibility

| <i>Example of processes for installing charging infrastructure at terminal</i> | Timeline | | | |
|---|----------------------------|----------------------------|-----------------------------|----------------------------------|
| | 20XX | 20XX | 20XX | 20XX |
| Tenant submits project proposal to Port and utility for review | Milestone Completed | | | |
| Port reviews tenant proposal and provides permitting decision including environmental clearance | | Milestone Completed | | |
| Utility develops workplan and installs electrical upgrades | | | Milestone Incomplete | |
| Tenant implements proposal component of installing charging infrastructure | | | | Milestone to be Completed |



Utility needs to delay installation due to relocation of underground pipeline that was discovered



Port may request a time extension or plan modification for upcoming milestone

South Coast AQMD Rule Enforcement

LEGAL ENFORCEMENT OF SOUTH COAST AQMD RULES

- South Coast AQMD inspectors identify rule violations and take enforcement action
- Notices of Violation (NOVs) referred to Legal Department for resolution
- Agency attorneys initiate settlement negotiations
- Consider “all relevant circumstances”

SETTLEMENT PROCESS

- Case normally not settled until violation has ceased
- Alleged violator may present factors in mitigation
- South Coast AQMD may substitute “supplemental environmental project” for part of penalty (normally up to 50%).
 - *Example: air filtration
- Settlements reported to Governing Board monthly
- If no settlement, South Coast AQMD may file civil action in Court (or Small Claims)

PENALTY FACTORS (H&S §42403)

1. The extent of harm caused by the violation
2. The nature & persistence of the violation
3. The length of time over which the violation occurs
4. The frequency of past violations
5. The record of maintenance
6. The unproven or innovative nature of the control equipment
7. Any action taken by defendant, including the nature, extent, and time of response of the cleanup and construction undertaken to mitigate the violation
8. The financial burden to the defendant

PENALTIES

- South Coast AQMD's enforcement authority for civil penalties can be found in the California Health and Safety Code at sections 42402, 42402.1, 42402.2, 42402.3, 42402.4, and 42402.5.
- Each day or part of a day that a facility is in violation is a separate violation and subjects the facility to civil penalties.
- At the strict liability level, the South Coast AQMD can seek penalties of up to \$10,000 (\$12,490) per violation per day.
- Penalty maximum increases by CPI each year (H&S § 42411)
<https://www.aqmd.gov/nav/about/authority/enforcement>

*Example: \$10,000 = \$12,490 in 2024

EXTENSIONS AND VARIANCES

- Where a South Coast AQMD rule provides for extensions, a facility may use the processes outlined in the applicable rule.
- If a facility is out of compliance (or will be in the future) due to circumstances out of its control, it may request temporary relief from specific rules and permit conditions by filing a petition for a variance to be heard by the South Coast AQMD Hearing Board.
- Variance relief will only be granted where the Hearing Board can make all six required findings. (H&S § 42352)

REMEDIES FOR ONGOING VIOLATION

If violation not ceased, and alleged violator is uncooperative;

- South Coast AQMD seeks “order for abatement” before Hearing Board
- Hearing board: independent quasi-judicial body consisting of doctor, lawyer, engineer, and two public members. H&S §40501.1
- Order for abatement – similar to injunction requiring respondent to refrain from a particular act, or refrain unless certain conditions are met. §42452.
- Conditions designed to lead to compliance can be contested or stipulated. §42451

REMEDIES FOR ONGOING VIOLATION

- Violation of abatement order subject to civil penalties (\$25,000) and injunction (§42453, §42454)
- South Coast AQMD may also ask the Court to directly order compliance (H&S §41513)

Rule Implications for Grants and Incentives

Use of Grants and Incentives

Funding Source Opportunities

Federal and State Grants

- Funds administered over a set timeframe, often for multiple projects

Incentive Programs

- Funds awarded to individual applicants to assist with development or deployment of individual vehicles and/or infrastructure

Does PR 2304 limit use of incentives?

- No limitations in rule language
- Limitations, if any, would be in funding programs

Are limitations found in all funding types?

- Applicability of funding program is key factor
- PR 2304 focuses only on infrastructure, not fleets
- PR 2304 only applies to Ports, not tenants or operators

Staff encourages stakeholders to provide specific concerns on grant/incentive funding challenges

Key Federal and State Grant Programs

| | |
|------------------------|---|
| Federal | <ul style="list-style-type: none">• Inflation Reduction Act (IRA)<ul style="list-style-type: none">• Climate Pollution Reduction, Clean Ports Program, Clean Heavy-Duty Vehicles• Bipartisan Infrastructure Law (BIL)<ul style="list-style-type: none">• Charging and Fueling Infrastructure, Grid Innovation Program• Maritime Administration (MARAD)<ul style="list-style-type: none">• Port Infrastructure Development Program• EPA<ul style="list-style-type: none">• Targeted Airshed, DERA |
| State | <ul style="list-style-type: none">• CalSTA Port and Freight Infrastructure Program (PFIP)• CEC Clean Transportation Program• Zero and Near Zero-Emission Freight Facilities |
| ~\$20 billion in total | |

Note: not an exhaustive list

Based on staff's review of grant programs:

No restrictions on
using funds for
PR 2304
compliance

Key Incentive Programs

| | |
|--------------|--|
| State | <ul style="list-style-type: none"> • Carl Moyer Program • Volkswagen (VW) Mitigation • Hybrid and Zero-Emission Truck and Bus Voucher Incentive Program (HVIP) • Low Carbon Fuel Standard (LCFS) • CEC EnerglIZE and Clean Transportation Program |
| Local | <ul style="list-style-type: none"> • South Coast AQMD <ul style="list-style-type: none"> • WAIRE Funding • Clean Fuels Program • Ports <ul style="list-style-type: none"> • Clean Truck Funding • Technology Advancement Program (TAP) |

Note: not an exhaustive list

Based on staff's review of incentive programs:


Most have no restrictions on using funds for PR 2304 compliance*

- *Carl Moyer Program is only program identified with potential limitations for PR 2304 compliance*
 - *Requires projects to be surplus of rule requirements*
 - *Surplus determination may depend on:*
 - *Who is applying*
 - *Any additional rules/regulations outside of PR 2304*

Additional Updates

Further Considerations for Plan Approval Criteria

Plan evaluation focused on:

- Consistency with relevant studies, assessments, and practices
 - Planned infrastructure aligns with energy supply needed
 - Setting of planning targets, processes and timelines supported by evidence
- 

Plan evaluation not focused on:

- Engineering and specifications of infrastructure components
- Port policies and management over land use and alternative infrastructure to be installed

Potential Examples of Supporting Evidence

- Energy outlook reports
- Technology feasibility studies
- Records or documentation from third parties
- Policy documents or agreements

Further Considerations for Post-Plan Approval Rule Implementation

Plan Implementation Progress Report evaluation focused on:

- Consistency with approved Plan

Time Extension Request evaluation focused on:

- Demonstration that delay is beyond control of the Port
- Supporting evidence provided

Plan Modification Application evaluation focused on:

- Similar to Plan approval criteria (previous slide)
- Justification/evidence for what has changed since Plan approval

Proposed Approach for Socioeconomic Impact Assessment (SIA)

- SIA required for a proposed rule which “will significantly affect air quality or emissions limitations” but “*to the extent data are available*” [Health and Safety Code Section 40440.8]
- Scope and components of potential infrastructure buildout unknown at time of rule consideration
 - Ports will define scope in submitted Plan and will include assessments of costs and workforce impacts
- Publicly available data currently limited for alternative charging/fueling infrastructure costs
 - Some cost data may exist for existing and ongoing projects or in grant proposals
- Staff will conduct a literature review which will examine relevant infrastructure projects with publicly available information to identify:
 - Best practices and potential methods for estimating infrastructure costs
 - Cost range of infrastructure investments

Next Steps

Continue follow-up on feedback received

- Incorporate modifications to proposed rule as appropriate
- Respond to comment letters received
- Individual and small group follow-ups

Public Workshop in late May – early June

- Release preliminary draft rule language and draft staff report

Update to Mobile Source Committee in June

Additional Working Group Meetings as necessary

Anticipated Public Hearing for Board Consideration for Adoption in August 2025

Staff Contacts

| | | |
|--|---|--|
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| <p>Sign up for the mailing list at: https://www.aqmd.gov/sign-up (select "Rule 2304")</p> <p>For more information, visit: www.aqmd.gov/fbmsm (click into "Commercial Marine Ports")</p> | | |